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THE PRINCIPLES
OF
MORAL SCIENCE

BY THE
REV. WALTER McDONALD, D.D.
PREFECT OF THE DUNBOYNE ESTABLISHMENT, ST. PATRICK'S COLLEGE, MAYNOOTH

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PREFACE.

In this book I have endeavoured to state, in language as clear and simple as the subject permits, the Principles of Ethics that have been handed down by a tradition of many centuries in the Catholic schools of theology and philosophy.

I shall not be surprised to find the success of the attempt questioned and denied by many, if not most, of those who have spent the best part of their lives in the study of the great Catholic writers on morals. I admit, nay claim, that some important conclusions at which I have arrived differ from those of the ordinary handbooks on Human Acts, Laws, and Conscience, and are not to be found in any published treatise with which I am acquainted. If it were otherwise, I should not have thought of writing or publishing.

Very soon after I began to teach Moral Theology, I noticed a considerable difference between the principles of the science as explained in the treatise on Human Acts, and the less general conclusions reached later on, when dealing with particular virtues. As time advanced this difference seemed to increase rather than diminish, and I resolved to try whether I could not formulate the principles so that, while perfectly reasonable in themselves and breathing the spirit of the School, they might stand the test of being brought into comparison with all the less general, and therefore more easily ascertained, conclusions of moral science. Unless forced by what I deem compelling reasons I have not ventured to advocate a new form of statement: the reader must decide for himself whether the reasons that appeal to me so strongly are as conclusive as I deem them.

Those who have begun the study of moral theology or ethics by reading the treatise on Human Acts, may be disposed to think that the treatise in question, with which all our hand-books commence, was developed and put into its present shape before the special treatises that come later on and deal with particular virtues, such as charity, religion, chastity, or justice; and that these special treatises are practical applications of more general principles previously formulated. The reverse is true. The treatise on Human Acts is a synthesis of conclusions previously deduced when dealing with special virtues. Hence the natural order is to test the more general principles by applying them to the solution of special cases, somewhat as the student of nature tests a law by seeing whether it harmonizes with observed facts or even with previously ascertained less general conclusions. It may be, of course, that these less general conclusions are not true, or that the facts have not been correctly observed, or that the observation has not been sufficiently exhaustive. If, however, you are satisfied that the special conclusions are true, while you cannot make them square with the more general principle or law, nothing remains but to give this principle or law a new shape, so that it may be brought into harmony with the other ascertained results of science.

Now, I have not been induced to write this book by any desire to correct the commonly received teaching on the special virtues. This teaching I consider reasonable, as a rule ; and whenever I have expressed a preference for a different view, it will be found, I think, that the opinion so favoured is backed by the weight of considerable authority. The difficulty that I found in the treatise on Human Acts is entirely due, I imagine, to an incorrect, because incomplete, synthesis of these special conclusions ; and my aim throughout has been to show how the prin-

ciples as here set forth, and they alone, are true to nature, in the sense that it is only in this form they can be made to square with some important less general conclusions which all regard, or should regard, as reasonable.

As my object has been to explain and defend a definite system of moral science,—that, namely, which has been taught for centuries in the Catholic schools,—I have not thought it advisable to complicate the exposition by minute comparison with the details of other more or less antagonistic systems. Whoever has once got a clear notion and firm grasp of the truth, will not, in my opinion, be easily deceived by error. I have, indeed, considered it useful, with a view to a clearer statement of the Scholastic system, to contrast it with Utilitarianism as explained by Mill, with the evolutionary ethics of Spencer, and with Kant's philosophy of duty. I have not taken the doctrines of these writers at second-hand, and hope I have done them no injustice. Possibly I should have dealt in the same way with the system of Hegel as explained and advocated by recent writers, represented by Professor T. H. Green; but, to tell the truth, I have not found the works of these philosophers at all illuminating.

I feel that to make this treatise complete it would be necessary to add a fourth book,—on the Principles of Specification. I have been working on this part of the question at intervals for several years, and have found it difficult but extremely interesting. It was necessary, first of all, to get a clear notion of the nature of species, in substances and especially in accidents. As qualities, such as sciences and virtues and vices generally, are the most important accidents that call for specification, I found it useful, to say the least, to determine, in the light of modern chemistry, physics, and physiology, the nature of qualities. This enabled me to deduce the

principles of specification; and I have attempted more than once a scheme or *catalogue raisonné*, in which, by means of diagrams somewhat like genealogical tables, the natural groupings and affinities of the various virtues and vices might be represented. The entire subject is so full of difficulties that I have not yet succeeded in harmonizing all the parts even to my own satisfaction. If, however, this treatise should meet with approbation from those who are competent to judge, I think it may be possible within a short time to complete it by publishing the results of my attempts to formulate a theory and scheme of specification of virtues and vices.

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The Principles of Moral Science.

BOOK I.—THE NATURE OF MORALITY.

Chapter I.—The Moral Order.

1. **Good and Evil.**—It needs very little reflection or study of nature to convince oneself that, by interaction, we and the things by which we are surrounded affect one another for good or evil. A bullet passes through a man's lung, or a sword through his heart; it is not good for him who receives the wound; whereas he might have been benefitted by the knife of the surgeon. Food taken into the stomach in certain quantities increases strength; whereas one is injured by poison, as also by the most wholesome food if taken in excess. The same applies to heat and cold, work and recreation, sleep and watching; and so with very many, if not all, of our relations with the things around us.

Nor is it of man only that this is true, but of the lower animals and plants, which derive benefit from or are damaged by food, heat, pruning, cleaning, and such things. It holds even of the inorganic world. A diamond is improved by judicious cutting, but may be injured by heat; the same is true of a block of marble; and in the process of evolution through which stellar systems pass, we are wont to distinguish the early phases as a growth and the later as a decay.

2. **Exact Notion of Good and Evil.**—Consider, now, what exactly is meant by "good" and "bad," when they are predicated of a block of marble, an apple-tree, a horse, or an athlete or surgeon, as such. I do not ask you to try to make out a definition of good,—for the notion is too simple to be capable of definition. It is a trite saying that, to define everything, we should need an infinite series

of definitions. But, without exactly defining, we may make comparisons with other concepts and so make our notions more accurate and clear.

Good, then, as it seems to me, in the sense in which we are now considering it, is a continuation or increase of something positive ; and bad is a cessation or diminution. By something positive I do not mean substance only, but state or condition as well. And it is important to bear in mind that the production of something which, though not the best that may be conceived or even produced, is yet truly positive, is good in the true sense. Badness, on the contrary, is diminution.

This can be seen at once in the examples already suggested. No diamond was always a diamond ; the carbon of which it is composed was at one time in a less perfect state. When it was made into a diamond its condition was improved : it was good for the carbon to be so treated. Whatever keeps up this crystalline formation is also good ; whereas burning is bad, inasmuch as the condition or state of the carbon is thereby lowered. It is supposed, of course, that the diamond state is an improvement on the uncrystallized condition : whoever will not admit this, may say that it was bad for the carbon to have become crystallized.

So, too, with regard to food and poison. The matter of which plants and animals are composed is in a certain condition, which is maintained and improved by moderate food and certain activities, but deteriorates as a result of poison, excess, or too great fatigue. Food, therefore, is good for the organism ; poison bad.

Remark, now, that these various states or conditions —of inorganic matter or of organisms—either consist in or are due to a peculiar relation of parts to one another, according to which the substance in each case is capable of a higher form of activity, or is at least more beautiful. I do not know that a thing must be active in order to be beautiful ; certainly if a thing is beautiful it is good, and becomes better as its pure beauty is increased. A statue may not be able to do more than any other block of marble, but it has a more excellent shape or figure. The activity of a diamond is higher in character than is that of the graphite in my lead pencil ; this is why the carbon as conditioned in the diamond is in a better state. The same holds of the plant, animal, or man, that is well, but not excessively, fed and cleaned or exercised : the condition

of the organism is thereby maintained or improved; whereas the effect of poison, dirt, or overwork, is deterioration. It should be borne in mind, moreover, that although an exclusively vegetable and milk diet, for instance, may not be as sustaining or improving to the human constitution as if fish and meat were added, yet it is good as far as it goes. It tends to sustain and improve, differing in that way from no food at all and from poison. What is good is good, even though it may not be better or the best.

3. **Bad sometimes Equivalent to Good.**—There is another kind of good which must not be left out of sight,—the improvement effected in condition by the elimination of something positively injurious. The surgeon's knife does good in this way; so does the sculptor's chisel. It is a principle, therefore, that good is done not merely by conserving and increasing the amount of positive reality already possessed, but also by getting rid of the same when its presence is injurious,—when it interferes with the conservation or acquisition of a higher good. The principle may be put conversely:—to conserve or increase the positive reality already possessed is bad, whenever the activity of this reality tends to produce greater loss to the system.

By a slight extension of the principle we find that it is sometimes good to do what is bad, provided this is the only way of avoiding something worse. It is good, for instance, to destroy valuable merchandise by throwing it into the sea, if it is only thereby that one can avoid shipwreck; it is good to kill animals for human food, to drug oneself before submitting to a painful surgical operation, and so on. The general principle—an important one, as we shall see later on—is: whenever one is compelled to do one or other of two or more bad things, it is good to do what is least evil. This is equivalent to saving something equal to the excess of evil. If one were offered by a tyrant a choice of evils,—to lose one's head, for instance, or only an arm, it would be good to prefer to have the arm taken off. If you have to choose between $-x$ and $-(x+y)$, you will conserve y by choosing the $-x$.

This does not apply merely to motives,—of which there is no question here; nor to the moral order only: it holds in the physical order as well, and thereby, as we shall see, comes to hold true of morals.

4. **Physical and Moral Orders.**—So far good and bad have been predicated in the same sense,—of inorganic matter, of plants and brutes, and of man; in so far as they are all conserved, and improved or disimproved, by the actions of other agents. And it is well to note that what has been said is in no way peculiar to any school of thought or system of philsophy; it is so elementary as to be admitted by all. In the remarks I am going to make there may no longer be the same agreement; yet they represent what I conceive to be the opinion of all who recognise the freedom of the human will.

It is admitted, at all events, as I imagine, that of things in nature that act on other things, thereby improving or disimproving them, there are two great classes: some are ruled by laws in the strict sense; others are not capable of being ruled by law. To the first class belong man, and, as some would say, the higher animals, at least; in the second class are vegetables and inorganic matter. No government makes laws for the guidance of projectiles, or lays down directions for corn as to how it should grow. Men are treated differently; they are told what they should do, and are expected to do it. This, again, is not theory; it is a fact.

In this connection I do not forget the very many laws that are treated of in chemistry, astronomy, and physics; such as Boyle's law, the laws of motion, the laws of refraction of light, and so on: but I think it will be seen at once that the term, "law," as applied to these truths, is used analogously,—in a sense, therefore, different from that which it bears when it denotes the rules laid down for the guidance of human action. These rules are expressions of the will of a superior, so that intelligent subjects may know this will and conform their actions to it; whereas the laws of motion are simply general truths which represent the lines on which unintelligent agents are made to act, by compelling forces pressing on them from outside. If, therefore, the natural meaning of "law" is an expression of will to which an intelligent subject is expected to conform, it is plain that it is only in a wide sense—analogously—that we can speak of the laws of refraction or of motion.

Take, now, any act which is capable of being directed by a real law, in the strict sense of that word,—such as an act of eating, driving, or shooting, on the part of a man. Actions of this kind are peculiar, inasmuch as they can

be governed,—can be influenced by appeals to the intelligence of the agent; whereas no appeal to its perceptions can deflect a bullet from its path. It has been usual in the schools of philosophy to designate as moral the good or the bad that is effected by such actions as may be governed in this way, as well as the actions themselves which produce these effects.

Here we reach the important division of good and evil into *physical* and *moral*. The state or condition of a thing is improved or disimproved. Look at this merely as a change in substance or condition, and you have before you the physical good or evil. Look at the same thing, not merely as a change of condition, but as a change wrought by an intelligent agent, who is capable of knowing and appreciating the effect of his action, and therefore capable of being guided in the performance by strict law, and you have the moral or governable order,—moral good or moral evil.

Remember that, so far as we have yet considered, it is the same objective thing,—good or evil, betterment or deterioration,—that is either merely physical or moral, according to the point of view from which it is regarded. Not that all physical evil may become moral evil; since not all increase or diminution is subject to strict law. Diamonds were not formed, nor are they destroyed sometimes, by the acts of intelligent agents. But when an agent which is capable of self-direction does act so as to produce an increase or diminution of perfection, whether in self or in inferior natures, this result, regarded in itself, is a physical good or evil; and the same result, regarded as produced by one who is capable of self-guidance in producing it, is good or evil of the moral order.

5. **What Actions are Moral? Mr. Spencer; the Catholic Writers.**—There is diversity of opinion as to which acts precisely may be rightly regarded as moral. Mr. Herbert Spencer,[1] as I understand him, ascribes morality to the acts of brutes,—meaning by brutes animals endowed with conscious perceptions but inferior to man. I am not quite sure, however, that I apprehend his meaning. In Section 8 of the *Data of Ethics*, speaking of conduct under its ethical aspect, he says:—"Observation shows that we

[1] See the *Data of Ethics, passim*; also the *Ethics of Social Life*, Ch. I., entitled *Animal Ethics*; and Ch. II., entitled *Sub-human Justice*.

apply them [the terms 'good' and 'bad'] according as the adjustments of acts to ends are, or are not, efficient." And again :—" Acts are called good or bad, according as they are well or ill adjusted." This becomes more definite in Section 9 :—" Is there any assumption in calling good the acts conducive to *life*, in self and others, and bad those which directly or indirectly tend towards *death* ? " Plants, however, and beasts live ; hence it would seem that the action of sun or rain on grass, or the fertilization of a female flower by the pollen of the male, or the action of a bird in feeding its young, is ethically good, since it conduces to life.

Later on[1] we read :—" The moral consciousness proper is rightly occupied by the recognition of, and regard for, these conditions by fulfilment of which happiness is achieved or avoided." It would seem, therefore, that the life to which good acts conduce can be only that of conscious beings, since these only are capable of happiness ; and also that whenever actions promote the conditions by fulfilment of which any kind of happiness, even of brutes, is achieved, these actions are morally good. I find, however, another statement[2] to the effect that " Ethics has for its subject-matter the most highly evolved being, man." But even in man a good digestion or heart-action tends to prolong life and to secure pleasure ; is it therefore moral ? One might doubt whether, according to Mr. Spencer, the conduct of savages is truly ethical, since their condition is not perfectly evolved :—" Ethics," he says, " has for its subject-matter that form which universal conduct assumes during the last stages of its evolution. We have also concluded that these last stages in the evolution of conduct are those displayed by the highest type of human being, when he is forced, by increase of members, to live more and more in presence of his fellows." Nay, if it be true that the subject-matter of Ethics is " the form which universal conduct assumes during the last stages of its evolution," it is not easy to see, on the evolution hypothesis, how we are, or ever can be, in those last stages. May not the *Uebermensch* look with as much contempt on our claims to an ethical standing, as we look on any possible claims of beasts, flowers, or sunshine ? What right has Mr. Spencer to define the last, as distinguished from the latest, stages of the evolution process ?

[1] *Inductions of Ethics*, Ch. II., Sect. 124.
[2] *Ibid.*, Sect. 107.

Catholic writers, on the other hand, are wont to maintain that no action can be moral which is not free.[1] Since, however, they all speak of the material goodness or badness of indeliberate acts, these writers must acknowledge that *formal* freedom is not essential to morality; but only a kind of radical freedom, consisting in this, that the agent would be free in acting if he performed the act deliberately.

Professor Sidgwick[2] takes a middle course; maintaining, on the one hand, that "the cumulative argument against free-will is almost overwhelming"; and, on the other hand, laying it down that "if there be any good other than happiness to be sought by man, as an ultimate practical end, it can only be the Goodness, Perfection, or Excellence of Human Existence."[3] Hence he defines a Method of Ethics as "any rational procedure by which we determine what individual human beings 'ought'—or what it is 'right' for them—to do or to seek to realise by voluntary action."[4]

6. **Criticism.**—I do not think it necessary to examine the position ascribed to Mr. Spencer. Who ever thinks of morally good or bad animals or plants? Is it wrong on the part of wolves or sharks to eat men? If cattle are allowed easy access to a hay-rick, they will waste a quantity of hay: is this immoral? Is a partridge virtuous when it defends its young? Why should we attach new meanings to words? Morality and intelligent self-direction are correlative, as has been said; but who would think of making laws or rules for the self-guidance of beasts? I will take it, then, that to the ordinary man, who does not allow philosophical speculation to run away with his common sense, no creature lower than man is capable of acting morally.

I cannot, however, see my way to agree with the received Catholic notion, even as explained. It seems to me that certain acts are moral even though they are not and never can be free. Such is, for instance, love of the good in general, and also those acts of love towards God

[1] This also, I take it, is Dr. Calderwood's meaning when he says (*Handbook of Moral Philosophy*, Part I., Ch. I., n. 3):—"When deliberate reflection on the nature of an act is impossible, moral quality cannot belong to the action." And again:—"Action merely physical or purely intellectual does not come within the moral sphere."

[2] *Methods of Ethics*, Book I., Ch. 9, Sect 4.

[3] *Ibid*, Book I., Ch. 1, Sect. 1.

[4] For a statement and criticism of Kant's view see Chap. IV., p. 26.

which are elicited by the saints in heaven. These are necessary acts; they are not, never will and never can be free. I find it hard to think that an act of divine charity elicited by a beatified soul,—elicited, as it is, under the guidance of intelligence fully conscious of the righteousness of the act,—is outside the moral order. It is even more difficult to conceive how the love which God bears himself, or which he bears towards finite good, and his hatred of evil, all of which are as necessary as his being, cannot be morally right. They are holy; are they not therefore moral?[1]

I admit, indeed, that men perform many actions which are not moral in any sense; such, for instance, as the beating of the heart and the secretion of gastric juice. These actions are not only not under control, but are performed independently of any intelligent direction. They differ in this from acts which are *per se* controllable, though *per accidens*, as elicited on a particular occasion, quite indeliberate. They differ also from such acts as the love of God in beatified saints. Accordingly, a moral act seems to be one which *per se* is capable of being directed by intelligence and will.

7. **Ethics and Politics.**—Professor Sidgwick, as we have seen, limits the study of ethics,—and therefore, apparently, the moral order,—to any "rational procedure by which we determine what individual human beings ought to seek to realise by voluntary action." He adds that by using the word "individual" he "provisionally distinguishes the study of ethics from that of politics, which seeks to determine the proper constitution and the right public conduct of governed societies."

It seems to me very strange to say that an unjust war, or deliberate violation of a treaty, or spoliation of a weak and inoffensive nation, is not ethical, because the act is

[1] Liberatore (*Elementa Ethicae*, c, 2, a. 1., n. 22) says:—"Prima conditio ad moralitatem requisita in hoc cernitur quod actus sit liber. Quare actiones puerorum ante explicatum rationis usum, aut quae in somno exercentur aut amentia, moralitate privantur." So also Billuart, speaking of indeliberate actions, says:—"Cum non sint actus humani et morales, defectu libertatis, satis constat non esse neque bonos neque malos moraliter" (*Summa Summae*, De Act. Hum. D. 4, a. 6). On the contrary, I find in Lehmkuhl (*Theol. Moral.*, Vol. I., n. 135):—"Non licet provocare . . . infantes aut amentes ad ea quae sunt natura sua mala. . . . quia actus illi singuli in ipsis infantibus objectivam malitiam retinent." This latter view I regard as the common teaching in the Catholic schools.

not performed by an individual. The same holds of public enactments which tend to hand over to one section of the community the lives or the property of another section. I admit quite freely that the political aspect is not the same as the ethical ; just as the physical or medical aspect of the action of the individual, when he takes poison or drinks to excess, is not the same as the ethical aspect of the same action. There is, however, but one action,—the taking of poison,—which has many aspects, of which one is physical, another chemical, a third medical, and a fourth ethical.

It will be seen from this that the two sciences, politics and ethics, are not necessarily the same because they may treat of the same actions ; just as the science of physiology or of medicine is not ethics, although we may learn from either how to perform actions which are ethically good or bad. As we say in the Catholic schools, the material objects of these various sciences—the concrete things which they consider—may be the same ; but the formal objects—the aspects under which the material object is viewed—are different ; and it is from the formal object, not the material, that actions and sciences derive their specification. Chemistry and physics are distinguished in this way ; so are physiology and psychology. And so, if I were pressed to say how politics may be distinguished from ethics, I should not reply that the actions which politics considers are not in the moral order ; but should look for the distinguishing mark, in the first place, to the material object of each science,—which is wider for ethics than it is for politics, inasmuch as many actions are ethical which have no political aspect. I should look, in the next place, and principally, to the formal object ; which in the case of politics seems to be the physical welfare of the community ; but in the case of ethics is something different,—the peculiar welfare which we designate as " right." In this way I should maintain that all political acts belong to the moral order.

Chapter II.—Right and Wrong.

1. **Notion of Right and Wrong.**—We are now in a position to appreciate two other distinctions which are in common use in connection with morals: *right* and *wrong*, *ordinate* and *inordinate*. We have seen that a moral action is one which is at least capable of intelligent direction. Remark now that word "direction," and its relation to the term "right." Right (*rectum*) is what is ruled or directed,—meaning of course, what is *properly* directed. Which, then, is the proper direction? Not necessarily the straight line; for if an architect wanted to give his material the form of an arch, or an engineer to give a curve to a line of railway, he would not make it straight, but bend it; and this direction might be the right one in the circumstances.

Remark, further, what this supposes,—that there is a certain order of fitness between things, no matter how it arose or what put it there; and that, in so far as this order is observed, everything is right, otherwise it is wrong,—ordinate or inordinate, in or out of order. Not that when things have been put out of order they lose their activity, or are not able to make a new order out of the present chaos; but that it was disorder, wrong, bad, to have caused the confusion. Let me try by means of examples, to make this more clear.

2. **Examples.**—It is a trite saying that one may use, but should not abuse food. Now, since food is destroyed in the use, this saying means that it is good to destroy food, provided one thereby tends to sustain something better; but not if the result is a diminution of reality. This, as it seems to me, is why it is good when men use the lower animals to sustain themselves; or when these feed on others lower still, or on vegetables; these again on mould or mineral substances. All this means improvement, or at least conservation, of the reality already existing in the universe; and so it is good, right, in order. On the contrary, it is bad when the grass or corn of a kingdom is parched by drought, or swept away by flood, or devoured by fire or by locusts; as it also is when bacteria

feed on and destroy cattle, or wild beasts eat men : because all this means diminution of reality. The locust, indeed, is more perfect than the blade he eats, and so far its act results in good ; but inasmuch as the result of its activity is the starvation of something better than itself, for this reason its interference is an evil. And as you can conceive a time when it may have been good that creatures like locusts should abound,—and it is not impossible, to say the least, that, even now, the world as a whole would be the worse for not having any,—so you can conceive a set of circumstances in which sheep and oxen would, owing to increase in numbers, become a source of injury to something better, as sparrows and rabbits have become in Australia. In such circumstances it would be good to destroy sheep and cattle, as something evil. A blade of wheat is excellent in a wheat-field ; it is but a weed in a flower-bed or in a potato-drill. That is not its place ; and hence, being out of order, it is bad, inordinate ; and a good farmer or gardener will have it eradicated.

3. **Application to Human Relations.**—Applying this to the relations of men to one another, it follows that those who have power and are able either to force others to service or to put them to death, do ill when the result is to diminish the sum of reality in the world. To make a slave toil needlessly is only less cruel than it is to kill him ; the toil is but a slow torture and a dying life,—a profitless drain on the store of reality. If, however, one's toil, no matter how fatiguing, results in the maintenance of something better,—as for instance, in the payment of taxes and the support of order,—it is well applied ; and, provided it is exacted in due proportion, it is rightly exacted.

The same holds with regard to the relations of labourers and capitalists. If the system which prevails at present can be justified, it is because capital, as such, is good ; and because, taking the forces of the world as they are, we are in a better position with capital than we should be in without it. Hence, when one man works for another, thereby spending his energy to increase the other's prosperity, he will be doing only what is good and right, as long as the relation between the parties is such as is for the benefit either of themselves or of mankind generally. "Benefit," in this connection, very often implies physical welfare ; whether the same holds always we shall see as we proceed.

4. **Right as a Result of Repression: Punishment.**—I can conceive that it may be good for one man to draw on the stores of another,—making him, for instance, do work, or suffer pain, or even putting him to death,—without deriving any other profit than the mere suppression of excess. For as a sculptor takes a chisel, and, by lopping off portions of a block of marble, produces a more excellent harmony,—an increase of reality in the mass that remains,—so the harmony may be preserved in society by reducing the activity of parts that have got out of order. Does it not often happen in machinery, that when a lever or crank has gone wrong, it is easier, and, therefore, better, to cut it off than to bend it back into the proper position? Here we see an example of how good may be done by doing what is bad in itself,—or in the abstract, as it were,—but is the less of two evils; the repression, which would otherwise be out of order and bad, becoming equivalent to the maintenance or the restitution of order. You can level down as well as level up; by bending in as well as by bending out you can bring a line to the proper curve; and the same holds of any order whatsoever.

5. **Objection: First Line of Explanation.**—I imagine some one to object here, that according to the foregoing it is not bad or wrong to crush the weak, no matter how cruelly, provided some strong man grows stronger thereby. It certainly ought to be good and right for sailors to throw overboard one who is infected with plague, lest the disease should spread to all; and in somewhat the same way a paternal government ought to stamp out disease in men as it does in cattle,—by killing such as are already infected. As for the old and all who are unable to work and have no capital, it would seem to be sheer waste of good food,—a diminution of the store of reality,—to keep them in existence. Men would thus be treated like vegetables and brutes,—or like blocks of marble and granite, for that matter; they would be kept as long as they are useful; and when their work is done, they would be cast into the furnace or the pit.[1]

These are terrible deductions, and I readily admit that

[1] "A man bitten by a mad dog is not blameworthy, but people have a right to put him to death."—Spinoza, as explained by Bain (*Mental and Moral Science*, p. 414).

no principles can be maintained from which they can be logically drawn. Let us see, however, whether on principles of sheer utility, and with a view merely to the preservation of realities, it might not be profitable to sustain the old and infirm at the expense of some good food, and to expose oneself to the danger of infection rather than stamp out disease in men as we do in cattle.

There are certain practices, such as lying, which by far the greater part of Catholic moralists regard as intrinsically evil, and therefore justifiable on no ground of even the most extreme necessity. When these writers come to assign a reason for this view, some of them take up the utilitarian position, that, whereas in a particular case a lie might result in an immediate good, the remote and general effect would be disastrous, inasmuch as to permit lying in extreme cases would be only admitting the thin end of the wedge which would ultimately render all social intercourse impossible.

I do not wish to set forth this as a valid argument, but merely to urge that one might reason in the same way with regard to the point under consideration, viz., that although there might be an immediate gain from the slaughter of the infirm, the aged, the plague-stricken, yet this gain would be more than balanced by the want of regard for human life in which such conduct would ultimately result. In this way it might still be held that to kill the innocent is a diminution of reality; and I should not be at all surprised to learn that this line of argument would commend itself to some of our theologians. It does not, however, appear to be the line of defence taken up by the Catholic moralists generally; and this supplies an opportunity of developing further the idea of right and wrong,—the order or want of order that may subsist between the beings of the universe.

6. **Second Line Indicated.**—As inorganic is less perfect than vegetable matter, this again than animal matter, and this than man; and since, moreover, as a matter of fact, everywhere throughout nature the process of development has been able to go on only because the higher and stronger forms have made use of those which are weaker and less perfectly developed; it does not seem unreasonable to suppose that this is the order of things intended by the Author of Nature; and that it not only tends to increase the sum of reality in the universe, but

is also right, that lichens should feed on rocks, cows on grass, and men on cattle. When, however, our theologians come to examine the relations of men to one another, they find a certain equality as well as an inequality. In some things—life especially—all men are equal; nor is the life of one, from this point of view, better than that of another. Hence, although the slaughter of persons stricken with the plague might result for the time in the stamping out of the disease, the means taken to bring about this good would be inordinate. Men's lives are not intended by the Author of Nature for the support of other men; nor may we, without a violation of order, in times of famine, kill children and live on them, as we may feed on cattle and sheep.

This, perhaps, is what is meant, at least in part, by those writers on morals who, in proof of the doctrine that it is never lawful, in any set of circumstances whatsoever, to directly cause the death of an innocent person, say it is because human life is not under man's dominion. Wherefore, as it would not be right for one, in any circumstances whatsoever, to slay oneself directly; so, *a fortiore*, these writers say, it is not right to directly cause the death of another, unless in so far as he may have deserved it for crime.[1] I do not say that this reason has no force unless it means that, even though one were to cause the greatest happiness of the greatest number by directly killing an innocent person, yet it would be out of order—and therefore wrong—to do so; inasmuch as the happiness produced would really be a discord, and therefore an evil,—somewhat like a lump on the face,—if it were the result of an action which interfered with human independence. I do not say here that the reason assigned comes to this, but only that it looks like it. If, however, this should be the meaning, it is equivalent to saying that what increases the sum of human welfare is not necessarily right, nor what detracts therefrom wrong of necessity; since, in addition to human and other happiness, order has to be conserved,—itself a good and desirable thing; nor is anything right, no matter how excellent it may be, except it be in order,—that is, in harmony with all other beings.

7. **Right and Physical Good.**—Physical good, therefore,

[1] See, *e.g.*, Card. De Lugo, *De Justitia*, Disp. 10, n. 102. To avoid needless complication I have in the text abstracted from cases of divine dispensation or permission.

and right, are to be distinguished, at least in concept ; so that even though the same concrete thing should be right and physically good, it is not right precisely because it is good, but because it is in order,—does not make for discord. This I regard as certain. It is, however, open to dispute whether and in what sense it may be maintained, in addition, that what is right conduces in every case to physical welfare ; so that a thing could not be wrong which results in increased prosperity, or—what is the same thing —in the escape from or avoidance of a proportionately greater loss of physical reality. This question will be discussed fully in the next chapter.

Chapter III.—Utilitarianism.

1. **Points of Agreement between Utilitarians and Catholics.**—John Stuart Mill[1] defines utilitarianism as "the creed which . . . holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness." And he goes on to say that "by happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure."

Now, my sympathies are with Mr. Mill when he protests against an unfair representation of this doctrine; as if the only pleasures contemplated by Utilitarians were those of sense; and as if they did not "assign to pleasures of the intellect, of the feelings and imagination, and of the moral sentiments, a much higher value, as pleasures, than to those of mere sensation."

It is, moreover, an admitted principle of the Catholic philosophy, that not only is it right to desire and attain what is pleasing in the sense explained, but it is impossible even that any appetite should tend to anything except what has been first proposed to it as pleasant,—*conveniens* we call it.[2]

Further, I have no doubt that if the question were whether utility, in the sense explained, ever serves as a *test* of right and wrong, all Catholic moralists would answer in the affirmative. Ask them, for instance, why it is right to own capital, to respect the ownership of others, or to obey lawfully constituted superiors, but wrong to cheat or to steal or to disobey; and they answer at once that these things are right or wrong because they tend to the salvation or to the destruction of society. The good of society is thus made a test of right and wrong; but the

[1] *Utilitarianism*, Ch. II., pp. 9, 10.

[2] In Catholic philosophy the pure love which, when its object is a person, we call charity, abstracts from this notion of pleasure,—*conveniens*,—and, having made the abstraction, tends to the good as represented absolutely. I think, however, I am right in saying that even by charity we cannot tend to a good which we have not first regarded as *conveniens*,—pleasurable; and that a motion of the theological virtue of concupiscence invariably precedes every act of the theological virtue of charity.

good of society is nothing else than the greatest happiness of the greatest number, in Mill's sense.

Here, however, it is necessary to guard against misapprehension. When Catholics make utility serve as a test of right and wrong, they do not suppose those actions to be wrong which do not make for the greatest happiness possible in the circumstances. It is enough if the act makes for happiness, though not for the greatest happiness: to be good it is not necessary to be the best. Hence no Catholic that I know would commit himself to anything like the following assertion,—to which, according to Professor Sidgwick,[1] all Utilitarians are committed :—" It is always wrong for a man knowingly to do anything other than what he believes to be most conducive to Universal Happiness."

2. **Distinction between Moral Goodness and Utility.**—Although, however, I freely admit that—in many cases at least—utility may serve as a test of morality, so that what is useful is thereby proved to be ethically good, I cannot acknowledge that moral goodness is but another name for utility. It is, indeed, the same action which is useful that is also morally good ; nay, this moral goodness may be revealed or tested by the utility ; but the two concepts, moral goodness and utility, are quite distinct ; and this for two reasons already sufficiently explained. In the first place, to be in the moral order at all an act must be capable of being directed by intelligence ; nor can we admit that the action of the sun on the human system, though it is so essential to happiness, is good morally. An act, therefore, may be useful without being moral ; which proves that the two qualities are to be distinguished even when they are found in the same act.

Moreover, the morally good and the right act are formally identified ; whereas the right and the useful are two distinct shades of meaning. Not that the useful may not in every case be right,—that is not now the question ; but only that its rightness, order, harmony, is something formally different from its utility.

3. **Utilitarian Morality Incomplete.**—There is, I think, a further complaint which a Christian moralist may reasonably make against Utilitarian ethics,—that in this system

[1] Book 4, Ch. 5, sec. 4.

it seems to be supposed that an act derives its moral character entirely from its relation to creatures. Now, rightly or wrongly, Christians believe that man is not independent but subject,—bound to service. He has relations, not merely with other men, and with beings of lower nature capable of sensations of pleasure and pain, but with God ; and hence his actions are not to be deemed right—in order—merely because they may be in order as regards some of the terms of these relations. It may be right to serve man, but it is no less right to serve God ; nay, it is better, inasmuch as the importance of regulating our relations to him is to be measured, in part at least, by his importance. Hence, if while in the service of man we try to please God, this very endeavour to please is a true act and is truly straight and good,—its peculiar goodness not being measured by its power of contributing to human or any lower happiness. Utilitarianism, therefore, or the service of man, however useful it may be as a partial test of morals, is not, on Christian or even on Deistic principles, a perfect and complete test ; which is another proof that moral righteousness and utility are not strictly identical relations.

It is, in great part, because they leave out of consideration these relations of man to God, that so many Utilitarians are unable to appreciate the extraordinary virtues of some of the Christian saints,—extreme love of poverty, chastity, and mortification generally. For, though it is undoubtedly true that a certain moderate amount of mortification is useful, as keeping the passions in check, it can hardly be maintained, I think, that the extreme austerities of some of the hermits and stylites served to promote the greatest happiness of the greatest number. For though the example was to a certain extent good, it would have had also, as being extreme, an evil influence,—probably had; which could only be justified on the ground that God is pleased with voluntary mortification, as such, even though it should be positively injurious to the temporal happiness of the race. Similarly, he is pleased to exact satisfaction, not with a view to any greater benefit in the shape of greater pleasure or absence of pain, but merely as satisfaction,—that is, as restitution of the order of justice disturbed by sin. It is on the same principles that eternal punishment is defensible ; not because it is useful,—inasmuch as a time may come when it will cease to have any useful effect in saving souls from sin and thereby promot-

ing happiness,—but simply because, even though it causes so much misery to the damned, the relations of God towards sinners demand that this should be so.

4. **Is it even Partially True?**—It remains to consider whether, if we regard human conduct merely in so far as it affects the welfare of the agent himself and of other creatures which are capable of happiness and pain, utilitarianism may not be true; in the sense that human conduct, limited in this way, must be judged in every case to be either good or bad, according as it tends to increase the sum of pleasure or pain among finite beings. As test cases we may take those which were brought forward in the last chapter,—lying, and the direct slaying of an innocent man; and ask whether, as a matter of fact, actions of this kind can ever be right; and, if not, why precisely. If the Utilitarian holds them to be wrong in every case, he must show that there are no possible circumstances in which they do not tend to diminish the sum of happiness. And, conversely, if, in proving them to be always wrong, one should find oneself logically compelled to make out that they are so because their invariable ultimate tendency is to diminish the happiness of the race, one thereby virtually, though not formally, proclaims oneself a Utilitarian.

5. **Lying Tested on Utilitarian Principles.**—Take lying. I note at the outset that pronounced Utilitarians do not regard acts of this kind as wrong in every case. Mill says [1]: "That this rule [lying is wrong, because inexpedient], sacred as it is, admits of possible exceptions, is acknowledged by all (?) moralists; the chief of which is that when the withholding of some fact (as of information from a malefactor, or of bad news from a person dangerously ill) would preserve some one (especially a person other than oneself) from great and unmerited evil, and when the withholding can only be effected by denial."

So also Professor Sidgwick[2]:—

"On the whole, then, reflection seems to show that the rule of veracity, as commonly accepted, cannot be elevated into a definite moral axiom; for there is no real agreement as to how far we are bound to impart true beliefs to others;

[1] *Utilitarianism*, Ch. II., p. 33.
[2] *Methods of Ethics*, Book III., Ch. 7, S. 2.

and while it is contrary to common sense to exact absolute candour under all circumstances, yet we find no self-evident secondary principle clearly defining when it is not to be exacted."

Mr. Leslie Stephen, also, holds it to be right to tell lies in circumstances wherein it is only thus that one can show oneself trustworthy ; and something like this, I take it, may be regarded as the teaching of Utilitarians generally. I am not sure, however, that recognition of the lawfulness of lying in certain peculiar circumstances, is consistent with the principle on which they regard the practice as wrong ordinarily. The principle is thus laid down by Mill [1] :—

"It would often be expedient, for the purpose of getting over some momentary embarrassment, or attaining some object immediately useful to ourselves or others, to tell a lie. But inasmuch as the cultivation in ourselves of a sensitive feeling on the subject of veracity, is one of the most useful, and the enfeeblement of that feeling one of the most hurtful things to which our conduct can be instrumental ; and inasmuch as any, even unintentional, deviation from truth, does that much towards weakening the trustworthiness of human assertion, which is not only the principal support of all present social well-being, but the insufficiency of which does more than anything that can be named to keep back civilization, virtue, everything on which human happiness on the largest scale depends ; we feel that the violation, for a present advantage, of a rule of such transcendent expediency, is not expedient, and that he who, for the sake of a convenience to himself or to some other individual, does what depends on him to deprive mankind of the good, and inflict upon them the evil, involved in the greater or less reliance which they can place in each other's word, acts the part of one of their worst enemies."

In the very next sentence Mr. Mill goes on to teach that one may lawfully contribute to these terrible evils, and so "act the part of one of the worst enemies of the human race," merely to stave off an inconvenient question, or to save a dying girl the pain which comes with the reception of bad news. I do not see how this can be made out to be consistent ; or how it can be shown that one contributes

[1] *loc. cit.*

to the greatest happiness of the greatest number by lying to the sick girl, if all these other evils are liable to follow from the lie.

6. **Practical Utilitarianism of Some Catholic Writers.**—I am disposed to regard as much more consistent the position taken by those Catholic moralists who maintain, practically, that the social evils which would result if it were ever lawful to tell a lie, are so great as to make it inconceivable that greater could follow from telling the truth in any circumstances whatsoever. Carrière puts the argument thus :—

"Speech, as the principal means of conversation and commerce, is of the greatest necessity for the end or the felicity of human society. For this felicity, accordingly, it is necessary that there should be full and absolute security in speech ; for if this were lacking, no human intercourse would be sufficiently safe, and society would be threatened with the greatest loss, since it is by means of speech that every thing is procured. Now, such security cannot be maintained, unless lying of every kind is absolutely forbidden. For if it were held that only pernicious lies are prohibited absolutely, or that the prohibition does not extend to cases of necessity (whether one's own or another's), or to such or such circumstances, no one would be sure that he was not deceived by any speaker ; inasmuch as one should have reason to fear in every case that the speaker may have convinced himself that his present circumstances are of this exceptional kind."[1]

So also Cardinal Mazzella :—

"The inordinate character of lying, in relation to rational nature, arises principally from the injury which that nature suffers, in respect of intercourse between men,

[1] "Loquela est instrumentum conversationis commerciique humani praecipuum, ideoque ad finem seu felicitatem societatis humanae quam maxime necessarium. Requiritur ergo ad illam felicitatem, ut in loquela habeatur plena et absoluta securitas; hac enim deficiente, nullum satis tutum erit commercium humanum, gravissimumque detrimentum societati imminebit, quum in loquela procuratio rerum omnium universa contineatur. Porro non habebitur ea securitas, nisi absolute prohibitum sit quodlibet mendacium. Si enim nonnisi mendacium perniciosum habeatur ut omnino prohibitum, vel si prohibitio dicatur non attingere casum necessitatis, propriae aut alienae, vel tales aut tales circumstantias, jam nemo securus erit, an non fallatur a loquente: quia semper vereri poterit ne ille quem loquentem audit sibi persuadeat se versari in quadam ex iis circumstantiis,"—*De Justitia*, n. 932, 4.

by the loss of veracity and authority which it behoves every man to cherish . . . Surely, if it were lawful in any circumstances to tell a lie, or even if it were not intrinsically wrong, there could be absolutely no mutual trust. For, as St. Augustine keenly remarks: 'How are we to believe one who thinks it lawful to tell lies at times? inasmuch as even when he demands our confidence, he may be lying.'" [1]

When I say that the position taken up by these theologians is more consistent than that of Mill, I do not wish to be understood as approving the former. Mill would have us believe that he who tells a lie inflicts such evils on mankind as entitles them to regard him as one of their greatest enemies; yet he sees no harm in lying for what is, comparatively, but a slight cause,—to spare a dying person some additional pain. If the ultimate evil effects of a lie are so enormous as he makes them out to be, then it must be nearer the truth to say that in no case whatsoever, no matter how compelling the necessity, would it be right to inflict this damage on the race.

There are, however, two remarks which I wish to make by way of criticism of those Catholic writers whom I have quoted. In the first place, it is hard to believe that the evil of lying is in reality so very enormous, especially if the practice be limited to certain well-defined cases of great or extreme necessity. The very same writers who argue in this way, are wont to contend that mental reservation, if practised needlessly, would be almost equally injurious to society; and yet, for sufficient reasons, they would admit the thin end of the wedge. Why not hold the same with regard to lying?

The second remark is more pertinent to the question now before us. It is, that as those who are responsible for the argument we have been considering, appeal to the evils resulting from lying, exactly as Mill does, they, practically, in this matter, set themselves down as Utili-

[1] "Indecentia mendacii in ordine ad naturam rationalem, potissimum oritur ex dedecore, quo ea natura afficitur in ordine ad humanum commercium, amittendo veracitatem et auctoritatem, quam quisque honestus vir conservare debet: unde merito mendaces viles reputantur, ac quisque, natura duce, mendacii erubescit. Certe, si mendacium esset aliquando licitum, quatenus non intrinsece malum, penitus deficeret fiducia mutua: nam, acute observat S. Augustinus (lib. de mend. cap. 8): 'Quomodo . . credendum est illi, qui putat aliquando esse mentiendum, nam forte tunc mentitur quando praecipit ut illi credamus.'"—*De Virt. Infus.*, n. 630.

tarians. I do not now find any fault with them for this, but merely note the fact.

7. **Lying and Disorder.**—That a lie is wrong in every possible circumstance may be said to be the received doctrine in the Catholic schools of ethics; but the main argument whereby it has been traditionally defended, differs very notably from that which we have been considering. It is not in the least Utilitarian in principle, and for that reason is worthy of attention, as setting forth an idea of right and wrong which it represents as being not only notionally distinct from the useful and the hurtful, but in some cases really separable from the same. St. Thomas says:—

"Of its nature (ex genere) a lie is evil, since it is an act which falls on inordinate (indebitam) matter. For, inasmuch as words are by nature signs of concepts, it is unnatural and inordinate (indebitum) for one to signify with his voice what he has not in his mind."[1]

Here the reason assigned for the unlawfulness of a lie, seems to be a certain want of order or harmony which is inseparable from the use of words for any purpose but one,—to express certain ideas. It is no longer a question of doing good or evil to the race, but of the way—orderly or disorderly—in which the effect is produced. Let the effect be as good as you can conceive, yet, if the action from which it results is not by its nature ordained or adapted to produce that particular effect, in the circumstances and taking the mode of production into account, it—the action—is out of order and wrong. The effect might be excellent if produced differently; produced in this special way it is out of order.

According to this view it is easy to see why it should be wrong to stamp out disease among men as we do with cattle. Not that the process would not result in good, or that the condition of the race generally would ultimately deteriorate; but because this good, if produced, would be the result of discord and itself a disorder. Human lives are not intended—destined, adapted—to be means to secure the health of the community. If the plague came

[1] "Mendacium est malum ex genere: est enim actus cadens super indebitam materiam; cum enim voces naturaliter sint signa intellectuum, innaturale est et indebitum quod aliquis voce significet id quod non habet in mente."—2. 2. Q. 110, a. 3, c.

through fruit, or dogs, or cattle, we could do away with them, to secure a greater good; but men are by nature independent of one another,—not like cattle in relation to men. You destroy this independence by sacrificing one man's life to save others; your act, therefore, is inordinate or wrong.

If this be so, not only does the right differ from the useful by what is called a *distinctio rationis*, but sometimes by a real difference. What is admitted to be more useful,—more conducive to the sum of physical reality—may be out of order.

It may possibly be urged as an objection that the character of an action is invariably to be known by its effect, according to the axiom: *actio specificatur ex objecto.* If, then, the effect is good, why not the action by which it is produced? The reply, as I conceive it, is, that the effect is not good in the circumstances since it is not in order. Goodness is not to be measured entirely by the quantity of substance or energy that may be present, but by beauty and order also; else any house-painter might surpass Raphael. As, then, in judging of beauty, you compare different things, or different parts of the same thing, and see whether they fit into and suit one another, so as to harmonize; so you are to judge of all points of order whatsoever. It may, indeed, and often will, happen that the harmony will depend entirely on utility; as in architecture a very slight column offends the eye, if it has to support a great mass. What is useful enough, however, may be completely out of harmony and proportion; as, for instance, if a rough, strong leg were fitted into what is otherwise a delicately carved table or chair; or a rude cyclopean pillar were to be found in a noble specimen of Roman or Gothic architecture.

8. **Author's Opinion.**—I am disposed to agree with this. Remember, the question is not whether, in *any* case, a thing can be known to be right because it is ascertained to be useful: it is acknowledged that utility serves in very many cases as a test of morality. Intemperance, unchastity, anger, injustice, are perceived to be inordinate most easily through their injurious effects on individual and social life. There are, however, cases, in which, as it seems to me, there may be discord where there is no other want of due perfection. And unless Utilitarians are willing to regard as hurtful whatever leads to disorder,

just as they set down as harmful what disfigures physical beauty by excess,—I cannot regard their position as tenable.

If you press me further to say whether lying is always inordinate, I confess my inability to see my way very clearly. On the one hand there is the argument already quoted from St. Thomas. On the other hand, however, it might be said that, as it is only necessity which would justify one in using a splendidly painted canvas as shelter against a storm, or in making lime out of the Apollo Belvidere ; because paintings and statues are not intended by nature for such purposes, and yet they may be used in that way in case of necessity ; so it may be that although of their own nature words are intended to convey certain ideas, yet even words are for the service of man, so that necessity would justify one in applying them outside their ordinary line of service. What is a word, any more than a statue, that it should not be applied, where necessary, to the benefit of man ?

The argument is not easy to meet ; and yet it seems, somehow, that there is a difference between the two cases. The canvas or the marble, even in its degradation, does not make any pretence to be what it is not ; there is no untruth about it. After all, the one is able to shelter from the storm, and the other to make lime ; these are portion of their natural functions. There is untruth about the use of words in the circumstances ; and where untruth is, there also is disorder. The lie is not evil precisely because an injury, so to speak, is thereby done to the dignity of words ; but because, apart from this altogether, there is a want of conformity—disorder—between the spoken word and the internal concept. The first is not by nature intended to clothe the second, in the same way as a block of marble is ordained to produce lime. This is the essential evil of lying, according to the argument of St. Thomas.[1]

[1] See, in this connection, *infra*, Book II., Ch. ii., Ss. 8, 9 (p. 163).

Chapter IV.—The Categorical Imperative.

1. **Author's Confession.**—I feel that it is due to the reader to give him notice at the very beginning of this chapter that I do not profess to understand Kant's system of philosophy. I have tried and tried to get to the heart of it, and failed. The difficulty is not merely that it is based on principles or leads to conclusions with which I cannot agree ; so does Mill's system, for instance, and yet I think I understand what Mill is at. Not so with Kant ; nor I will add, with his disciples. Neither is it that writers of this school divest philosophical terms of their traditional meaning. One could get over that by constructing a glossary to which one might refer from time to time, somewhat as Carlyle used to harmonize the old and new styles in dealing with the dates of the French Revolution period. This, no doubt, would be cumbersome and cause delay ; but it would serve, so that one might at length be enabled to grasp the meaning. What renders the study of Kant so barren is that the meaning attached to the most important terms is so vague as to render any such glossary useless. The most important sentences and paragraphs have a philosophical ring but no intelligible meaning ; and unintelligible premises lead to conclusion still more unintelligible ; with the result that one is almost lulled to sleep by the regular recurrence of words and phrases which, vague in themselves and disconnected with one another, have scarce more power than the plash of falling water to rouse the attention and keep it alert.

Of course it has occurred to me to think that all this may be due to some incapacity arising from defective training or carelessness on my own part. I understand other philosophers, however, even though I may not agree with them. I am consoled, moreover, to find in Mr. Herbert Spencer's *Essays*,[1] a note in which he represents his experience as being somewhat like to mine :—

"My knowledge of Kant's writings," he says, "is extremely limited. In 1844 a translation of the *Critique*

[1] Vol. III., p. 206.

of the Pure Reason (then, I think, lately published) fell into my hands, and I read the first few pages enunciating the doctrine of Time and Space ; my peremptory rejection of which caused me to lay down the book. Twice since then the same thing has happened ; for, being an impatient reader, when I disagree with the cardinal propositions of a work I can go no further."

I have been more persistent than Mr. Spencer ; I doubt, however, whether I am anything the richer intellectually for the dreary efforts which I have had to make.

If asked how it has come to pass that the philosophy of Kant influences the thought of the world so widely as it does at present, if it be so void of meaning as I represent it to be, I have no explanation to offer but this, that by reason of its misty phraseology it provides a means of escape from the arguments of the Materialists ; somewhat as when Homer found his heroes in difficulties and yet did not want to have them killed just then, he called in the aid of some god or goddess to envelop them in fog. The energy accumulated during nineteen centuries of Christian thought, not to speak of the many ages of Pagan theology that preceded the Christian era, has not yet been exhausted. Professors in our universities are impelled by association more than by conviction to maintain religious views ; and seeing that whatever scientific convictions they have are on the side of materialism, nought remains but either to resist the force of association, which is still too strong for them, or to envelop their own and their unfortunate pupils' minds in mist.

As I do not profess to understand Kant's system of ethics, I can only place before the reader some of the difficulties in which I became involved in studying his moral writings,—such difficulties, that is, as have an important bearing on the matter of this treatise.

2. **The External Action.**—The first difficulty which I experienced was to determine whether in the opinion of Kant any other action than that of will is truly moral : whether, for instance, to kill a man in self-defence or to pay wages—the external act, that is, of killing or paying —has of itself and independently of the act of will whereby it may be accompanied, any true morality.

The Fundamental Principles of the Metaphysic of Morals opens with the statement that " nothing can possibly

be conceived in the world or even out of it which can be called good without qualification except a good will." Morality, the writer insists over and over, is to be distinguished from legality, and is found only in such actions as are performed from a motive of duty. Now, since external acts are the same no matter what may be the motive that determined the will to command them, it would seem to follow that they have no morality of themselves, and that any moral goodness or evil they may possess is derived altogether from and entirely due to the act of will.

As telling against this view I have not failed to ponder over the phrase " without qualification." A good will is represented as the only thing which is good " without qualification : " does this mean that the external act may have true, though imperfect—what the Schoolmen call *material*,—morality ? So also when Kant distinguishes between legality and morality, he identifies the latter with " moral worth;" and the meaning may be that external acts and acts of will other than such as tend towards fulfilment of duty, are devoid of what in the Catholic schools we are wont to call " merit." It is for those who profess to understand his system of morals to say whether anything like this may be the true meaning. If it should be, the system, as far as material morality is concerned, would not differ so very notably from what is set forth in these pages. The main practical difference would be, that whereas, according to Kant, no action can be conceived as good to which the agent is not bound in some way, so that to omit this act would be a violation of duty ; according to the system of the Schoolmen here set forth, an act may be good and very good although its omission would not be the least violation of duty.

If, however, Kant's meaning should be, as I am disposed to think it is, that the external act has in itself no morality whatsoever, but derives its morality, if it possesses any, from the act of will by which it is commanded, then I say that this view of morality is contradicted by every treatise on ethics that ever was written, including those which we owe to his own genius.

For ethics is not merely a science of principles but extends to details, taking up certain actions and discussing whether they are morally good or bad. Which are these actions ? Merely acts of will ? No : but external acts, for the most part,—of beneficence, self-control,

paying debts, eating, drinking, turning the other cheek to the smiter, lying, murder, robbery, and so on. A treatise on ethics would be exceedingly imperfect if it did not explain whether these actions and hundreds like them are right or wrong. What, however, would be the value of such teaching, if it were admitted as a first principle that the moral goodness or badness of external actions did not depend in the least on the character of the actions themselves, but only on the act of will which commanded them ; so that lying, or robbery, or killing the innocent, would be right and in order if only it were done from a motive of duty ? On such principles it would be easy to resolve all ethical problems ; or rather there could be no such problem, since it would be true to say that any action you may conceive is right, provided only it be commanded by a will to do one's duty.

Kant himself discusses the morality of certain external actions,—suicide, lying, fair dealing, beneficence, and temperance, to mention but a few. He says,[1] for example :—

" It is always a matter of duty that a dealer should not overcharge an inexperienced purchaser, and wherever there is much commerce, the prudent tradesman does not overcharge, but keeps a fixed price for everyone, so that a child buys of him as well as any other. Men are thus honestly served."

Again[2] :—

" The man who submits to a surgical operation feels it no doubt as a bad [ill] thing, but by their reason he and everyone acknowledge it to be good. If a man who delights in annoying and vexing peacable people at last receives a right good beating, this is no doubt a bad [ill] thing, but everyone approves it and regards it as a good thing, even though nothing else resulted from it : nay, even the man who receives it must in his reason acknowledge that he has met justice, because he sees the proportion between good conduct and good fortune, which reason inevitably puts before him, put into practice."[3]

In the first of these passages what is the meaning of duty and honesty ? What is it that is pronounced to be

[1] *Metaphysic of Morals*, p. 16.—I quote from Dr. Abbott's translation, but the pages referred to are those of Rosenkranz's edition, which will be found in Dr. Abbott's book.

[2] *Critical Examination of Practical Reason*, p. 181.

[3] The square brackets are found in Dr. Abbott's translation.

honest and due? Is it not the external act of fair dealing? And is not what is honest and a duty also morally good?

In the second passage what is meant by saying that the surgical operation or the beating—each an external action—is good? The writer himself has supplied the answer. The beating is good in the sense that there is a proportion between good conduct and good fortune, which proporton is put into practice by the beating. Hence it is a just—surely a morally good—action; the external action of beating, mind you, and not merely the act of will from which it springs.

In the *Methodology of Pure Practical Reason*,[1] there is a passage which plainly implies that external actions are not void of moral goodness:—

"The other point to which attention must be directed is the question whether the action was also (subjectively) done *for the sake of the moral law*, so that it not only is morally correct as a deed, but also by the maxim from which it is done has moral worth as a disposition."

Here is a fine distinction between moral correctness and moral worth, which some of the disciples of Kant might possibly explain. The external act may have moral correctness: in that case will it not be morally right or good?

Texts of this kind scattered everywhere throughout Kant's moral writings go to show that in his view external acts performed by men have a certain material rightness or goodness, which, however, is so imperfect as not to deserve the name of morality or moral worth. If this be anything like a true representation of his meaning, I have but to urge once more the complaint already set forth, that duty or moral law should be made the only test of this correctness or rightness. Common sense, as I believe, teaches very plainly that there are many acts which, if done, are right or morally correct, though, if omitted, the omission would involve not the least neglect of duty.

Moreover, if it be admitted that external acts have, of themselves and apart from any act of will whereby they may be commanded, a true though imperfect morality, the disciples of Kant will have to face the following crucial questions:—In what precisely does this morality consist? On what principles are its various species,—justice, temperance, fortitude, and their sub-divisions,—determined? How does the categorical imperative help one to an answer?

[1] Page 310.

3. **The Act of Will.**—As I read Kant's theory of ethics, it is a fundamental principle of his that, "for an action to be morally good, it is not enough that it conform to the moral law, but it must be done for the sake of the law."[1] This, as I understand it, applies not only to external acts, which, therefore, are supposed to derive all their morality from the motive with which they are performed, but also to acts of will, all of which are represented as being void of moral goodness except those alone which embrace duty or the law as such. "Respect for the moral law is the only and the undoubted moral motive, and this feeling is directed to no object except on the ground of this law."[2] "Legality is possible even if inclinations have been the determining principle of the will, but morality, moral worth, can be found only in this, that the action is done from duty, that is, simply for the sake of the law."[3] "All remains disinterested and founded merely on duty; neither fear nor hope being made the fundamental springs, which if taken as principles, would destroy the whole moral worth of the actions."[4] If we were in a position to arrive at certain knowledge of God and eternity, these truths "with their awful majesty would stand unceasingly before our eyes . . . Transgression of the law would, no doubt, be avoided; what is commanded would be done; but the mental *disposition* from which actions ought to proceed, cannot be infused by any command, and in this case the spur of action is ever active and external, so that reason has no need to exert itself in order to gather strength to resist the inclinations by a lively representation of the dignity of the law: hence most of the actions that conformed to the law would be done from fear, a few only from hope, and none at all from duty, and the moral worth of actions, in which alone in the eyes of supreme wisdom the worth of the person and even that of the world depends, would cease to exist."[5]

The only proof advanced, as far as I can perceive, for this very rigid doctrine is, that inclinations, such as hope, fear, and concupiscence generally, are liable to tend towards things which all recognise as evil. But, surely, it does not take much philosophical acumen to see in this a

[1] *Metaphysic of Morals*, p. 6.
[2] *Analytic of Pure Practical Reason*, p. 204.
[3] *Ibid.*, p. 207.
[4] *Dialectic of Pure Practical Reason*, p. 271.
[5] *Ibid.*, p. 294.

proof that acts of concupiscence are evil whenever they are unreasonable or inordinate, as the Schoolmen always held. If, however, the act of concupiscence be nothing more than a reasonable exercise of the appetite with which nature has endowed us, where is the proof that it is a violation of law or duty?

The rigorism of Kant, if consistently reduced to practice, would paralyze all the faculties of one who paid any practical heed to this dictate of conscience, since it is impossible for the will to embrace any object whatsoever, even duty or the law as such, without first tending towards it by an act of concupiscence, and embracing it as good for the agent in question. That this is so has always been maintained by the disciples of Aristotle,[1] who appeal in proof to the psychological experience of anyone who will take the trouble to attend carefully to what goes on within himself. It is an appeal to nature as found in each one,—the only source from which we can expect to draw any proof that may be worth producing.

Apart, however, from this aspect of the question, consider an act such as the wish to abstain on an occasion from intoxicating drink, or to drink one kind of beverage rather than another. It is, surely, not my duty to drink water only at dinner this evening, or to chose claret rather than burgundy. Suppose, now, that I resolve to take water: I cannot do so out of respect for law, since there is no obligation. Are we to believe, then, that such a resolution can have no moral worth, no matter what may be the motive whereby it is prompted? The same applies to such acts as religious vows and the observance of counsels generally, which, according to Kant, as I understand him, would have no moral value.

There is a further difficulty. If the only morally good act of will is a desire to do one's duty, and if duty is a correspondence with law, there can be but one virtue,—that of obedience; and not only science but prudence, fortitude, temperance, justice, with their various species, go by the board. If it should be said that all these may be duties and therefore moral, the reply is that what makes an act a duty will not make it an exercise of patience, or humility, or temperance. Surely these virtues belong to morality; and as surely they have their own

[1] Even Kant, as we shall see after a page or two, has to admit that in practice human actions, when closely examined, betray "everywhere the dear self which is always prominent."

constitution, independent altogether of the relation of duty ; which proves that it is not from any imperative of duty the moral worth or unworth of certain acts is derived. Try to draw up a *catalogue raisonné* of the virtues, with a scheme or system of classification, assigning reasons, and you will very soon perceive that in estimating what actions are morally good or bad, other relations besides that of duty have to be taken into account, and that there are many diverse forms of the relation of duty.

I will not stay to direct attention to what is the received doctrine in all Catholic schools, that in the moral order the highest motive of all is divine charity, that is, love of the Infinite Good regarded absolutely. This is not a love of duty nor any form of concupiscence ; though an act of concupiscence, but not a love of duty, is a condition of its exercise. Are we to be told, then, without a shadow of proof, that such charity is impossible ; or, if it should be possible, that it would be unlawful, or at least of no moral worth, because it does not tend towards duty or the law as such ?

Kant's rigorism finds what is, perhaps, its most striking refutation in the pessimism to which it leads and which he himself regards as well-founded :—

" If we attend to the experience of men's conduct, we meet frequent and, as we ourselves allow, just complaints that one cannot find a single example of the disposition to act from pure duty. Although many things are done in conformity with what duty prescribes, it is nevertheless always doubtful whether they are done strictly from duty, so as to have a moral worth. Hence there have at all times been philosophers who have altogether denied that this disposition actually exists in all human actions, and have ascribed everything to a more or less refined self-love.

" In fact it is absolutely impossible to make out by experience with any complete certainty a single case in which the maxim of the action, however right in itself, rested simply on moral grounds and on the conception of duty. . . .[1]

" I am willing to admit out of love of humanity that even most of our actions are correct,[2] but if we look closer

[1] Query : how can a maxim or an action be " right in itself " without " resting on moral grounds " ? What exactly is meant by saying that an action is " right," if it is not good morally ?

[2] Note again the word " correct." Are these correct actions right or morally good ? If not, what exactly is correctness as distinct from rightness or moral goodness ?

at them we everywhere come upon the dear self which is always prominent . . . Without being an enemy of virtue, a cool observer, one that does not mistake the wish for good, however lively, for its reality, may sometimes doubt whether true virtue is actually found anywhere in the world, and this especially as years increase and the judgment is partly made wiser by experience, and partly also made acute in observation."[1]

The antidote to this pessimism is to be found in remembering, in the first place, that the morality of external actions is real, though incomplete, and, as such, entirely independent of the motive that may have produced them; moreover, that though the motion of the will must always begin in concupiscence, it not only can but often does pass into pure or absolute love, human and divine; and that not the smallest reason has been advanced to show that even concupiscence, if restrained within the bounds of reason, is not natural and ordinate and therefore morally good.

It is, indeed, another question whether actions performed from motives of concupiscence, or its opposite, fear, have that highest grade of moral worth which consists in being meritorious of a reward from the Supreme Master. Some of the ablest of the Schoolmen refuse to allow them this high grade of morality, as we shall see when the question comes up for discussion in its proper place.[2] This, however, is very different from the sweeping assertion that they have no moral worth at all, because they are not done from the pure motive of duty.

4. **Kant's Notion of Law.**—In the *Metaphysic of Morals*[3] duty is defined as "the necessity of acting from respect for the law." The necessity, I take it, is not physical, although Kant's notion of free-will is so peculiar as to justify the criticism that if his formal teaching were true there would be no real freedom, the act by which the will embraces duty being necessitated physically just as surely and as absolutely as the stars are guided in their courses. Let us, however, be thankful that he is not always consistent to his own formal teaching in this respect, but admits that the necessity in question here is

[1] *Metaphysic of Morals*, pp. 28-30.
[2] See *infra*, Ch. xi., s. 5 (p. 118).
[3] Page 20
[4] *Metaphysic of Morals*, pp. 38, 70.

only moral ; which seems to signify nothing more than this, that should the will, as it sometimes does, embrace what it likes rather than what reason proposes as a duty, it thereby of necessity violates the moral law.

I pass over the term " respect," though it also is vague, especially as used by Kant, who excites suspicion by the two or three pages which he devotes to elucidating its meaning. What I am concerned with now is " law " and its correlative " obligation."

In common philosophical parlance the term " law " is now used in three senses : first, to denote an order in which events actually take place, as when we speak of the laws of motion ; secondly, to signify a relation which may or may not be observed between two terms, such as words or phrases in grammar, lines or colours in painting or sculpture, notes in music, quantities in mathematics,— if the relation is not observed the terms are perceived to be in some way out of order or harmony, and there is a jar ; thirdly, to designate an act of will on the part of a superior prescribing a certain line of conduct to be observed by those who are subject to his authority. There can be no question of the first meaning in this matter of ethics, which treats of how actions should be performed rather than of how they are performed actually. Kant expressly states that the law he contemplates is not any act of another's will ; hence the third signification is excluded.

The second is the meaning which I attach to the term when I speak of the natural, as distinguished from the eternal, law ; but I do not think any of Kant's disciples would admit that it is in the same sense the word is used by their master. Law in this sense is the same as order ; it is certainly not " imperative," nor does it of itself imply a " command " nor beget " obligation," as Kant supposes it to do. Who would regard himself as " commanded " or " bound " by the rules of algebra or logic ? If you transgress them in any operation you are so far wrong ; you are out of order or harmony, but you have violated no " command " of algebra, and have not failed to meet some " obligation " under which you are, say, to the faculty whereby you perceive the particular rule of syllogisms which you may have transgressed.

It will, I suppose, be said in reply that the laws of the moral order are peculiar in this that they are commands in the strict sense and imply obligation, whereas

the rules of arithmetic or logic are merely formulae to express an order or harmony that must be observed on penalty of being out of that peculiar order,—are conditional, as distinguished from categorical, imperatives. Something like this, as I understand, is the meaning which, when dealing with morals, Kant attaches to the term "law."

Where, however, is the proof that one's practical reason, when it perceives the disorder of theft or murder, imposes on the reasoner anything like a "command" to abstain from the disorder in question? Is it not more true to say that by means of our practical reason we merely see the deordination of such conduct,—deordination as peculiar in its way as is an æsthetical blunder or a mistake in a mathematical calculation? We perceive the deordination; which means that if the act is performed, whether by ourselves or another, we know it to be out of the moral order and wrong; but where is the "command" or the "obligation"? If I wished also I could say that my reason commanded me categorically, so as to lay me under a moral obligation in the strict sense, to observe the rules of grammar as I write this. I might say it, but what would the sensible reader think?

I need not repeat what I have already said, that there are morally good acts to which we are in no way bound; which proves that law in the sense of order is not always imperative in Kant's sense. It is in accordance with the natural law to take wine rather than water at dinner, or to give alms. I am not bound to give; above all, I am not bound to give as much as I may give without violating any "command." If I give I act in accordance with the natural law, which approves, but does not command, such actions.

The truth is that when the words "command" and "obligation" are used, the metaphor contained in the term "law" or "rule" is dropped, the former terms requiring to be understood in their literal sense, to express the will of the superior. This is the common usage, as is seen by no one more clearly than by Kant's own disciples, who, as I shall point out in the eighth chapter,[1] contend that there can be no law, command, obligation, except where there is such a will to issue the command; and who argue, consequently, from the existence of morality and law to the existence of a law-giver or commander

[1] Sec. 3 (p. 73).

—one who can oblige or bind the conscience. The argument would be quite valid if the rule or law were a true command ; but if it is merely a rule such as those of grammar or logic, as Kant's terminology leads one to suppose, where is the obligation ? and where the proof of the existence of a Supreme Ruler ?

5. **Kant's Notion of Duty.**—Akin to "command" and "obligation" is "duty," another term which is to be found *passim* in Kant's ethical writings. The only good will, he insists, is the will to do one's duty. And yet he contends that the reason why all attempts previous to his own to discover the principle of morality failed, is to be found in the fact that "it was not observed that the laws to which man is subject are only those of his own giving . . . and that he is only bound to act in conformity to his own will." [1] Duty, therefore, is a relation towards oneself or one's own act and not towards another. What are we to think of this ?

"Duty," as I shall soon point out, is the same as "debt" (debitum) ; as "ought," of which so much is heard now-a-days, is the past of "owe," which, of course, has a meaning akin to that of debt or duty. If I have bought a coat or a leg of mutton, I owe the price not to myself but to the tailor or the butcher. The meaning is, that as a result of my appropriating the mutton or the coat with his permission, I stand in a certain relation towards him, so that he can bring pressure to bear on me ; and this relation or order does not cease till I have paid the price. So when the estates of the realm have passed a law, I owe obedience,—to the estates or law-makers in question. Again, I owe filial respect towards my parents ; if I live in my father's house, I owe him obedience ; if I have promised a five-pound note to a friend, I owe it to him ; and so with all the other branches of the relation of debt or duty.

The Kantian theory and formula is that these things are all due to myself. I owe it to myself to pay the butcher, to obey the law, to honour my parents. How can one owe anything to oneself ? Try and get a clear notion of the relation expressed by owing or debt,—a relation of one person towards another. I do not and cannot owe temperance except to God, the Supreme Ruler who commands temperance in a certain degree. As far as I myself am concerned, if I am intemperate I do myself

[1] *Metaphysic of Morals*, pp. 51-2.

physical injury; I do what is morally out of order; but I fail in no duty towards myself, simply because, from the very notion of duty, it is impossible that I could owe myself anything. The same holds of all those moral acts that do not imply the existence of another person,—acts of humility, meekness, fortitude, patience, and the rest. They are not duties, except in so far as their innate moral rectitude may be backed up and enforced by a superior will; in that case they become duties and are due—to this superior. If you want proof of this, it is to be found in a careful analysis of the very notion of debt or duty, as distinguished from these other notions of temperance, fortitude, and the rest.

The autonomy of the human will, therefore, is a fine phrase which to a well-balanced mind signifies nothing. In a certain metaphorical sense a will can command the other faculties of the person who wills,—can command, for instance, an intellectual or corporal operation. So, in a moral personality, such as a nation, the will of the head or ruler, whoever he may be or however constituted, commands the other members of the body corporate. This latter is the strict sense of a command. There is and must be heteronomy in every case where there is any real command or obligation. The ruling powers may, in one capacity, as private individuals, injure themselves as representing the nation,—another distinct moral personality. The nation cannot by a national act injure itself or disobey its own law; the notion is as preposterous as it is to suppose that it can owe itself money, or that a private individual may be bound in justice to pay himself a five-pound note—may owe himself that amount.

6. **Ethics-Made-Easy.**—In the *Metaphysic of Morals*,[1] there is a paragraph which strikes me as somewhat extraordinary, and may, on analysis, throw some light on Kant's teaching as to the morality of external actions:—

"Here it would be easy to show how, with this compass [the principle of respect for law or duty] in hand men are well able to distinguish, in every case that occurs, what is good, what bad, conformably to duty or inconsistent with it, if, without in the least teaching them anything new, we only, like Socrates, direct their attention to the principle they themselves employ; and that

[1] Page 25.

therefore we do not need science and philosophy to know what we should do to be honest and good, yea, even wise and virtuous. Indeed, we might have conjectured beforehand that the knowledge of what everyone is bound to do, and therefore also to know, would be within the reach of everyone, even the commonest. Here we cannot forbear admiration when we see how great an advantage the practical judgment has over the theoretical in the common understanding of men. In the latter, if common reason ventures to depart from the laws of experience and from the perceptions of the senses, it falls into mere inconceivabilities and self-contradictions, at least into a chaos of uncertainty, obscurity, and instability. But in the practical sphere it is just when the common understanding excludes all sensible springs from practical laws that its power of judgment begins to show itself to advantage. It then becomes even subtle, whether it be that it chicanes with its own conscience or with other claims respecting what is to be called right, or whether it desires for its own instruction to determine honestly the worth of actions; and, in the latter case, it may even have as good a hope of hitting the mark as any philosopher whatever can promise himself. Nay, it is almost sure of doing so, because the philosopher cannot have any other principle, while he may easily perplex his judgment by a multitude of considerations foreign to the matter, and so turn aside from the right way. Would it not therefore be wiser in moral concerns to acquiesce in the judgment of common reason, or at most only to call in philosophy for the purpose of rendering the system of morals more complete and intelligible, and its rules more convenient for use (especially for disputation), but not so as to draw off the common understanding from its happy simplicity, or to bring it by means of philosophy into a new path of inquiry and instruction?"

This is repeated in the *Critical Examination of Practical Reason*[1]:—

"The commonest intelligence can easily and without hesitation see what, on the principle of autonomy of the will, requires to be done; but on the supposition of heteronomy of the will, it is hard and requires knowledge of the world to see what is to be done. That is to say, what duty is, is plain of itself to everyone; but what is to bring

[1] Page 149.

true durable advantage, such as will extend to the whole of one's existence, is always veiled in impenetrable obscurity; and much prudence is required to adapt the practical rule founded on it to the ends of life, even tolerably, by making proper exceptions. But the moral law demands the most punctual obedience from everyone; it must, therefore, not be so difficult to judge what it requires to be done, that the commonest unpractised understanding, even without worldly prudence, should fail to apply it rightly."

What is the meaning of this? Is it that acting on and applying the principle of respect for law or duty, the least instructed mind can solve at once and correctly any of the problems that have been or may be proposed in ethics or moral theology? If so, it were easy for legislators to discern what laws are just, for lawyers to decide which litigant has right on his side, for casuists to solve all possible cases. If this is the legitimate conclusion from Kant's premises, does it not amount to a *reductio ad absurdum?*

I do not see what else can be meant by the passages which I have just quoted,—and many more might be added in the same strain. And yet I doubt whether it is the true meaning: it has no necessary connection with the principle of duty. Even though one were bound to do in every case what seemed to be a duty, how would it follow that one should be able to discern in particular circumstances which is the path of duty? The Schoolmen all admit that one may not in any circumstances whatsoever act otherwise than as one perceives to be right; and yet they readily acknowledge that in many cases it is practically impossible for the keenest mind to discern which is the right line of conduct. Why may not the same hold of duty? Nay, does it not hold frequently —when there is question of the existence or binding force of a law?

Kant, moreover, as Dr. Abbott says,[1] seems to have been fully aware of the "difficulty of applying his formula to the complex circumstances of actual life. In his *Metaphysic of Morals* he states a great number of questions of casuistry which he leaves undecided, as puzzles or exercises to the reader." Dr. Abbott further calls attention to a passage in the *Preface to the Metaphysical Elements*

[1] *Memoir*, p. lii.

of Ethics, which purports to prove that "Ethics does not supply laws for actions (which is done by jurisprudence) but only for the maxims of actions;" and he concludes that "practically the value of Kant's principle consists, like that of the golden rule, in the elimination of inward dishonesty."

What are we to think? If Kant's great principle is of avail only to eliminate inward dishonesty, then he has not touched external acts; which is the same as to say he has done practically little or nothing in ethics, even though his principle should be right. Is it really left to jurisprudence to decide whether this or that law is right—to jurisprudence unaided by ethics? What, then, does Kant himself mean by those discussions on lying, suicide, fidelity to promises, beneficence, and the other questions of casuistry to which Dr. Abbott refers?

If, however, the opposite view is correct, and Kant believed that his principle sufficed to enable the meanest and least instructed mind to solve the practical problems of ethics as they occur, what in the face of experience and common sense are we to think of his belief? Certainly if I were convinced that any principle is capable of being applied to produce such results, I should at once conclude from experience that the principle is ridiculous.

I do not, as I have said, see how the principle of respect for law or duty advocated by Kant, even though it be applied to external acts, could possibly lead one to expect such wonderful results; and I do not argue against it on any such grounds. I call attention in this place to the passages in which he seems to put forward this extraordinary claim, merely to point out how vague his notions and language are, and how he seems not to have thoroughly co-ordinated his views so as to make them hang together.

7. **The Categorical Imperative and the Golden Rule.**—It is not unusual for the disciples of Kant to compare the formula proposed by their master: So act as that you may wish your maxim to be a universal law, with another and older formula proposed by a greater Master still: Do unto others as you would wish them to do unto you,—to compare these formulæ with a view to determine which is the better, and to decide in favour of that proposed by the German philosopher.

A comparison of this kind supposes both terms to

have the same pretensions,—that the golden rule is to the older system of ethics what the categorical imperative is to the system proposed by Kant. I doubt, however, whether the facts square with this supposition. The golden rule is, as its name imports, a rule or test whereby one may ascertain whether a particular line of conduct is right or wrong. It is not the basis of order and does not serve to constitute the right, but helps merely to clear away the mists of prejudice and thereby reveal an order already constituted. It is not the golden rule that makes it wrong, let us say, to steal or to murder ; it merely helps us to discern in certain cases the evil and disorder which actions like these always and everywhere contain.

If the maxim proposed by Kant were understood in the same sense, as a rule or guide whereby to determine what is in or out of order,—an act being considered in order which one could regard as such in every similar case,—it might well be admitted that it would be more universal, if possibly less needed, than the golden rule. The latter, by its very terms, is restricted to our relations with other men : Do *unto others* as you would have them do to you ; the Kantian maxim is not so restricted, but applies to acts such as those of temperance and fortitude ; unless, indeed, "law" should be identified with "duty," and "good" with "what one is bound to do." In this case there would arise of necessity, as has been already shown, a relation towards another conceived as a ruler or creditor of some kind, and the difference between the two maxims would practically cease.

What is of importance is to note that neither maxim constitutes or determines the moral quality of an action, but merely helps the conscientious agent to recognise the quality already determined by the very nature of the relation which the action involves; and that, if the Kantian formula is to be admitted at all, it is either by limiting its application or by extending the meaning of the term "law." If by "law" is meant a "duty" in the strict sense, the maxim applies only to such actions as bring the agent into relation with another person,—and not to all of these. If, however, a wider signification should be given to the term, so that the maxim would mean : Act so that you may wish actions similar to yours to be in order everywhere and always,—in this sense the maxim is of universal application, but means nothing more than is meant by the disciples of Aristotle when they say : A

good action is in order and good everywhere and for all time, provided the circumstances remain the same. I cannot think that it is in this sense merely the formula is proposed by Kant.

8. **Resumé.**—Apart from the difficulty of understanding what exactly is Kant's system of ethics and to what actions it applies, and leaving out of account also the unfounded assertions with which, for lack of argument, he claims to have refuted all the ethical systems that preceded his own, the main objections to the theory which he propounds, in so far as it is a theory, seem to me to be the following :—(1) The categorical imperative leaves no room for virtuous actions that are not duties ; (2) it reduces all duties to the one species—obedience ; (3) it destroys the foundation of obedience by the autonomy on which it insists. There can be no obedience where there is no law or precept in the strict sense ; and law or precept in this strict sense is unintelligible unless there is a difference between the legislator and the subject who is called on to obey.

There is, of course, the further psychological difficulty that this matter of morality is objective not subjective. Instead of issuing a command, and so, as it were, stamping its own form on the action, the business of the reason is to inspect the action, see whether it is in order antecedent to this inspection, and conform its judgment to what it sees. Murder or adultery does not become lawful for an individual or tribe or nation, even though it should be regarded as lawful ; just as a mathematical formula would not be proved true even though it were proved that all men have for centuries regarded it as true. To any one who thinks, it is evident that truth—in ethics as in physics or mathematics—is objective and independent of any subjective forms we may possess. It does not proceed from us but comes to us,—from nature, in the careful observance of which and not in any introspection—except in so far as within us also is nature—it is to be found. This aspect of the question, had better be deferred for consideration later on.[1]

[1] See next chapter, especially Section 6 (p. 49).

Chapter V.—Knowledge of the Moral Order.

Modern writers on ethics, especially those of the English and German schools, are very much exercised over the question how we come to the knowledge of morality;—whether by a faculty really different from the intellect whereby we perceive truths, let us say, in physics or mathematics; or by some special form of thought in the mind; or by means of some intuition, however this is to be explained. I purpose in this chapter to state briefly what I regard as true,—which will be found to be the traditional opinion in the Catholic schools.

1. **The Physical, Aesthetic, and Moral Orders.**—If you distinguish between three orders,—the physical, the æsthetic, and the moral,—you will find, I think, that it is just as difficult to explain the origin of knowledge in any one of the three as in any other, and that the key to the solution is the same in all.

By the physical order I mean, for present purposes, physics, chemistry, biology, astronomy, mathematics, and such sciences. Aesthetic knowledge is a class apart,— a perception of beauty, of harmony of colour, form, sound, imagery; it is possessed by every artist, be he painter, sculptor, architect, orator, or poet; and an explicit and formal knowledge of its canons and principles is necessary for any one who pretends to argue about art subjects, so as to prove either that a certain object is or is not beautiful, or that certain relations must be present as conditions for a truly artistic result. The nature of the moral order I have already in part explained.

2. **Origin of Knowledge generally.**—Consider, now, how knowledge is acquired in the domain of physical science and of art. This is not a treatise on psychology, and we must take something for granted in that department. The Catholic view is, that the first condition for human knowledge of any kind is an impression made from without on an organ of sense. This impression being given, the intellect,—which, as a modification of the soul, is present whole and entire in each of the sense organs and all their parts,—receives the impression, transforming it into a

spiritual image of an analogous kind ; and thus the first intellectual concepts arise. By comparing these, judgment follows ; reasoning follows judgment, by another comparison ; and thus the whole fabric of science is constructed,—by the spiritual perceptive faculty, the intellect, being acted on from without and reacting in turn. This, as I understand the matter, is a brief statement of the principles of psychology taught in the Catholic schools.

3. **Different Habits or "Lines" within the Same Faculty.** —Note, however, that though it is the same organ,—for example, the eye,—that is affected by all shapes and all colours ; the same ear that is affected by all sounds ; yet within each there are capacities of being affected very differently by different classes of impressions. And these capacities are so different as to be actually separable ; so that, as a matter of fact, there are some men who have a very delicate perception of beauty of form, but little or no sense of harmony of colour,—may even be colour-blind; or an ear may be fairly attuned to harmony of pitch, in the case of sounds, without being at all so delicately tempered as regards timbre or even volume. I do not mean that these various powers and capacities, or any of them, may be entirely absent from a particular organ, so that it would not have even an initial or radical capacity of being modulated or developed in that direction. But, inasmuch as all men progress along certain lines of capacity but not on others, it seems to me that these capacities must be as really different from one another as are the powers in a fiddle string—of producing different notes.

In the same way I believe that in the spiritual part of man,—the pure soul,—the intellect, or faculty of perceiving truth, is different from the will, or faculty of loving the good perceived ; nay, even, that as red light differs from violet by a real difference in the mode or shape of the ether-vibration in which both consist ; so within the organs of sense-perception, as also within the intellect, there are lines of perceptive capacity which differ from one another in character, and this from the very first instant of the existence of the organ or faculty in question. The power of perceiving beauty of form or outline is in this way separable from the power of perceiving harmony of colour ; and a man might be a fairly good chemist yet a poor mathematician or geologist. Thus, it is the same spiritual substance—the soul—that knows by an act of

perception and wills by an act of appetite; and it is the same perceptive faculty—the intellect—that by one habit or line of capacity studies algebra, and by another line or habit studies physics or biology; as it is the same general faculty of appetite or will that in one direction loves justice and in another temperance or fortitude. All of which is no more peculiar, when you come to think of it, than it is that the same ether should be able to vibrate as light, heat, or chemical action; and that even within the light-group of vibrations green or red should be distinct from blue or yellow.

Applying this to the three orders already commemorated,—the physical, æsthetical, and moral,—Catholic psychology supposes that it is the same substance and faculty, the soul with its intellect, that perceives truths, in physics or algebra, in arts, and in ethics,—the same substance and faculty, but not the same habit or line of power.

4. **Origin of Aesthetic Perception.**—Supposing, now, that the origin of knowledge of physical science or mathematics is to be explained in accordance with the foregoing principles, let us see whether the same might not supply a fairly satisfactory explanation of the origin of æsthetic knowledge. After all, how does one come to know that a line is straight or a curve beautiful? How does the painter get his first perception of the harmony of colours? or the musician his first idea of the beauty of a chord? For, in all these cases there must be a first idea; and though this may be, and probably is, the same in all departments of æsthetics,—the general idea of beauty or harmony of parts,—yet even this general idea must itself either be the first in this æsthetic order or be derived from another which was the first. Otherwise we should have reached the idea of beauty through an infinite series of stages.

As, therefore, the intellect, through its scientific habit, first perceives the universal ideas which go to form the first scientific judgment, whatever that may be; is it not reasonable to suppose that the same faculty, through its æsthetic habit, first perceives the beautiful or harmonious? And as from the first concepts which serve as the basis of science the intellect may go on comparing, compounding, or separating notion after notion; assenting and dissenting, reasoning and concluding; so may not the same intellect, through its other and parallel habit—the

æsthetic,—from its first notions of the beautiful proceed through comparisons, assents, dissents, and reasonings, to form all the concepts and draw all the conclusions that ever suggested themselves to a Michael Angelo or a Ruskin?

It may be disputed, indeed, whether the beautiful—the first object in the æsthetic order—is anything different from the existing thing or being—the something, *ens*—which is the object of the first concept of all. The formal notions, at least,—thing and beautiful—are different; and I can see no reason to doubt that the faculty which from the first notion of being—*ens*—is capable of reaching to the most abstract mathematical truths, is equally capable of attaining the notion of beauty,—though probably not by working on the same line precisely. And thus the question as to the origin of knowledge of æsthetics is resolved into the more general question as to the origin of any kind of knowledge whatsoever.

5. **Application to the Moral Order.**—The same exactly holds of the third, or the moral, order. Here, also, good and evil consist in harmony and discord; not, indeed, of the same kind as that which constitutes æsthetic beauty and ugliness; but something similar,—something of which beauty may be, perhaps, a phase. What is right, as we have seen, is essentially what is in order; wrong is disorder. And if it is possible for the intellect, by a special habit or line of perception, to attain the first concepts of the order in which all beauty consists; why should it not, in the same way, by a similar special habit, or "line," or "turn,"—for these are all but gross analogies to help us to form concepts of spiritual qualities and actions,—why should not the intellect have a peculiar habit or power of discerning the special phase of order which we denominate moral goodness? Given this capacity, nothing more is wanted but the impression from without to set it in motion and to begin the perception.

Accordingly, the question as to the origin of knowledge of morality is solved, as fully as any such question can be solved, by saying that moral, æsthetical, and scientific truths, are perceived by the same faculty—the intellect—and in the same way; except that each order supposes a peculiar phase of perceptibility—what the Schoolmen term a distinct *ratio objectiva percepta*—in the object, as well as a corresponding modification of the percipient faculty,

whereby it is capable of that peculiar line of thought; somewhat as the chemist and the physiologist have different turns, and study the same objective phenomena from different points of view. These different modifications being supposed, the fundamental concepts of the different orders arise on the necessary external stimulation. These primary concepts are followed by comparisons, judgments, and argumentations,—for the three orders in exactly the same way.

It is not merely the concepts of ordinate or inordinate —right or wrong,—that we can, as I believe, intue in this way; but these concepts as attaching to, or agreeing with, certain acts; and this independently of the utility of these acts, or their bearing on general happiness. To recall the instances already given, we perceive intuitively, as I imagine, the relation which language bears to thought, as also the relation of independence between man and man; and these intuitions,—or others more primitive if you will,—being given, we judge and conclude that it is inordinate to lie, or to stamp out disease by directly taking innocent human lives. The same applies in other cases, to all the virtues and vices, as it appears to me; the fundamental concept in each case being one of a peculiar form of order or disorder, which is perceived on comparison of the terms rather than proved.

I am not so foolish as to suppose that all agree with us in recognising these intuitions, or that we who admit them are agreed in every case as to what they are. Neither do we admit, however, that such universal agreement is a test of true intuitive perception, in the sense that where there is disagreement it is a sure sign that the intuition is imaginary. There are so very few things with regard to which there is now anything like universal agreement, that one is emboldened to make light of differences of opinion. I have never wavered in my confidence as to the existence of the external world, although so many philosophers profess themselves sceptical on the point; and it is only by intuition that one becomes aware of the objects around. And I can well understand how, in this department of psychology and ethics, there may be difference of opinion as to what we perceive intuitively in certain cases. Nay, I can understand that it may be possible to train one's faculties, as sailors' eyes are trained to discern objects at sea, or, to make use of a still better example, as painters and musicians can see harmonies and

discords which are entirely hidden from the untrained eye and ear,—I can understand how, in the same way, by the study of ethics and by constantly acting up to pure ideals, one may get to see that certain acts are out of order, which at first may have seemed ordinate enough, I make these observations because I notice[1] a tendency to object to intuitive perceptions, on the score that they are not universally received. Professor Sidgwick, to whom I refer, argues in the main, apparently, against the psychological principles which underlie the ethics of the Kantian School, and in so far his argument is valid. I myself have set it forth in this book.[2] He should, however, have mentioned the very different form of intuition advocated by the great exponents of the Catholic system of ethics; a form which, as explained, admits the possibility of error and gradual enlightenment.

6. **Principles of Locke and Kant.**—This is not the place to set forth the grounds on which Catholic psychologists base their teaching with regard to the origin of ideas, whether in the physical, the æsthetic, or the moral order. It may not, however, be out of place to remark that they reject Locke's principle,—that these ideas are merely so many modifications of sense perception; because, as the disciples of Locke themselves admit, this would destroy the necessary character of certain propositions. We cannot regard it as possible in any order for the angles of a triangle to be greater or less than two right angles; or that in any case whatsoever it would be lawful to blaspheme.

Kant, on the other hand, maintains the necessity of these truths at the expense of their objectivity, however much he may assert that he regards the physical and mathematical sciences as objective. The character of necessity and universality is stamped on them by means of some form or category within the mind, according to the German system; whereas it seems evident that these truths are necessary in the sense that, before ever there was a mind or a form or a category, and even if there never were any, they held and should hold. It is not true to say that they are, and are necessary and absolute, because we make them so; but it is true rather that we perceive them to be necessary and universal because they are so, and because they impress us as such from without.

[1] Sidgwick, *Methods of Ethics*, B. III., *passim*. [2] Page 43.

They are drawn from surounding objects by the speculative intelligence, or, if you will, by that turn or quality within the same whereby one attends to the ethical rather than the physical or æsthetic aspect of things. A practical reason and categorical imperative, in any other sense than this, are pure phantasms, or rather mental phenomena generated by association through thousands of generations,—phantasms which it would not take many generations of free-thought to brush aside, if the world were once convinced that morality and religion had no other basis.

7. **The Moral Sense.**—If, then, you ask whether there is a moral sense different from the intellect, by which truths of the moral order may be perceived, I answer that I do not like the use of the word " sense " in this connection. It is apt to convey the idea of something organic, material, gross ; whereas it is only the spiritual faculty—the intellect—that can perceive the moral order. If, however, by moral sense you mean some spiritual habit, as I have endeavoured to describe such things ; different from the intellect itself, as being a modification of intellect ; and different from all other intellectual modifications whereby we become acquainted with the other sciences ;—if by moral sense you mean a peculiar intellectual habit of this kind, I reply that there is such a thing, not merely for moral science but for every science or department of science that it is possible to distinguish.

Only remember that it is the same soul that understands and wills, and the same faculty of understanding —the intellect—that is moved in this way or that, as this or that habit, according as it perceives truths of this or that kind or department,—physics, mathematics, psychology, ethics, and the rest.

8. **Moral Theology and Conscience.**—What, then, is conscience ? Is it also a habit ? and how does it differ from the habit of ethics or of moral theology ?

There are two ways of looking at an ethical problem ; or, to put it more correctly, there are two ways in which an ethical question may arise and face one. Take, for instance, the question as to whether it is lawful to tell a lie. You may ask, in what is practically a speculative manner, whether it is ever lawful to tell a lie ; or, what is the same thing, whether for another, or for yourself at another

time, it would be lawful to tell a lie in such or such circumstances. This is a question in ethics, and the intellectual habit which enables you to perceive how it should be answered is simply an intellectual virtue. Let the question, however, arise in an immediately practical way: is it lawful for me, here and now, to tell this lie or do this or that action? The answer to this is given by conscience. As I understand the matter, conscience is a modification of the intellectual virtue that enables one to answer the question in its first and more speculative form. Or rather it is not so much a modification of that particular habit as the habit itself considered as at work on a case which is not only definite and individual but concerns the thinker himself at that very moment. Conscience is ethics or moral theology applied to an action of one's own which is being performed here and now. One's conscience is true or false according as one's ethical notions are right or wrong. If I do not consider it lawful for A. B. to tell a lie in certain circumstances, I shall not consider it wrong for myself to do so, whenever I judge my own present circumstances to be exactly similar.

9. **Objectivity of Moral Truths.**—In arguing against the doctrine of the moral sense, as also against the intuitive perceptions advocated by the disciples of Kant, Mr. H. Spencer relies, very properly, on the different notions of morality that prevail among different peoples, and among the same people at different times. Among other conclusions, however, he seems to deduce this,—that moral truths themselves depend entirely on the condition to which the process of evolution has been carried for the time being; so that among certain people it may not be wrong to steal, or to tell lies, or to commit adultery in certain circumstances, or to put one's father or one's child to death. There were, and perhaps still are, people among whom all these acts were or are regarded as virtuous; and we are asked to draw the conclusion that the acts in question must, for such people, be virtuous in reality, since their conscience told them or tells them that they are not wrong.

Consider, however, what has happened and still happens in other sciences: in chemistry what notions prevailed, not so very remotely, say, about the imponderables. There are no imponderables now: were there any in the eighteenth century? Did the sun really revolve round the

earth up to the time of Copernicus ? Were light and heat corpuscular emanations up to fifty years ago ? Was it only about the time of Darwin—or Lamarck, Kant, Buffon, or whom you will—that the doctrine of evolution became true ? If all the minds in the universe were to agree that two and two make five, would that prove that five would in such circumstances be the proper sum ?

According to the Catholic philosophy, propositions are not true in any science merely because people believe them to be true, no matter how extensively the belief may prevail ; and what holds in mathematics or physics holds equally in ethics,—for that, too, is a science. What if the Fijians thought it their duty to bury father and mother alive ? this no more made the practice right than the universal consensus of a thousand years ago made it true that the sun revolved round the earth. What these Fijians did with their hands was wrong, though what they did with their will was right ; as it is right to-day to honour one's parents and strive to benefit them. Of this, however, we shall have occasion to treat more formally later on.

10. **Exceptions: how Explained ?**—I am well aware that cases may be changed by circumstances ; that, for instance, without doing any wrong, one might drive rapidly along a thoroughfare which is unoccupied, but not when it is crowded ; that Bank Holiday might as well have been fixed for the first Wednesday in September as for the first Monday in August, whilst its being fixed for the latter date makes a great moral difference for the man of business who fails to turn up to his work ; nay, that a practice, such as polygamy, may have been lawful to King David whereas it is forbidden to King Edward. This, however, is not because the order between related things is changed, but because the things themselves that enter into the relation are altered by circumstances. It is not fast driving that is inordinate, but driving so as to run a man down ; nor is failing to come to business in time looked on as neglect, unless the day be one of business. In any well-ordered family children are now forbidden and again permitted to do certain things, the continuance or relaxation of the order being left a good deal to the will of their parents or tutors. Many Christians conceive that it was in some such way that the Father of all men allowed the Hebrew patriarchs to have

more than one wife, and maintain that without such permission the practice would be unlawful. Similarly, if Arbaham or Jephte was at liberty to kill son or daughter, it could only be because the Lord of life and death had given due permission.

But even though it were admitted that polygamy is useful or even necessary for the race,—and therefore *per se* lawful in certain circumstances,—it would not follow that the same would apply where the circumstances were different. And so it might be right for Abraham to marry Rebecca—even without any divine dispensation—whereas a modern European monarch could not be allowed equal liberty.

When the circumstances are the same things must have similar relations of order or disorder, as surely as two and two make four on Sirius as on the earth, millions of years since no less certainly than now,—as surely as certain lines and colours harmonize and are beautiful in the islands of the Pacific as in Paris, no matter how people in either place may fail to perceive the beauty or the harmony. You may, indeed, change the character of the relation—making or marring beauty—by altering any or all of the related terms; and so also you may do in the moral order. But so long as you leave the terms unaltered, the relation between them—of beauty or ugliness, harmony or discord, right or wrong,—will remain unchanged.

Chapter VI.—Material and Formal Morality: Different Forms.

1. **Forms Define and Perfect Matter.**—Everyone distinguishes between the matter and the form of a statue of Apollo: the matter is the block of marble or mass of bronze, the form is the human shape. The matter was in existence before the form and is independent of the artist; the shape came from him, and may be again destroyed while the matter remains the same.

Looking at these two realities—mass and shape—from the point of view of definiteness and perfection, we see at once that the advantage is with the form. The mass is capable of any shape whatever, and is perfected more or less as the shape becomes more perfect. Nay, if it be true, as modern chemistry tends to prove, that all bodies whatsoever are made up of the same protyle or first matter under different forms of grain, it will be seen that this primordial substance is, in itself and apart from the forms it assumes, not only much less definite, but much less perfect, than it is under the various forms. Protyle, for instance, as such, is much less perfect than oxygen, and this again less perfect than an oak or an ox. What I wish to bring out is, that the forms of natural objects not only define but perfect the masses in which they are sustained.

2. **Matter and Form in Human Acts.**—Now, in dealing with actions of the moral order,—which, for all practical purposes, are those of men,—Catholic moralists are wont to insist on a distinction of material and formal parts, after the analogy of matter and form in material substances. The matter is less perfect, somewhat indefinite, and capable of being directed; the form is what gives perfection and definiteness. An example or two will explain what I wish to convey.

Take the simple act of drinking. In this, which we are accustomed to conceive as one act, there are, or may be, in reality at least three series of acts;—in the body, in the intellect, and in the will. The arms and mouth are the physical causes which place the liquid in a position to pass into the stomach; and these organs are guided by the intellect and the will. Hence at least three distinct

acts or series of acts. Moreover, these actions are really different from one another ; those of the intellect and the will being immanent, and connected only by a moral bond with the effect produced by the hand or mouth. So also in the case of a morally bad act, such as murder committed by stabbing or cutting the throat ; the cut or stab is an exercise of bodily strength, which might have got a beneficent turn,—as, for instance, in the case of a soldier defending his country,—but, as it is, is directed by intellect and will to kill the innocent rather than the guilty.

This complex whole which I have described, is, after the analogy of the Peripatetic concept of material things, divided into its material and formal parts. As it is the office of the will to govern, it is supposed to supply the formal part, the material portion being the act of the body, and sometimes even that of the understanding. Thus, in the example already given, the act of cutting with a sword is the material part of the beneficence of the soldier and the maleficence of the murderer. In intellectual operations, also, the act of the intellect is the material part ; for an error, no matter how gross, does not amount to what is called *formal evil*, nor merit blame and punishment, unless it is wilful ; and in the Catholic schools we are accustomed to distinguish materially and formally good and bad acts of the intellect as well as of the body.

3. **Material Morality.**—Those who are not accustomed to the study of moral theology may think it strange, at first, to find external acts, such as eating and shooting, set down as moral ; especially as in modern times there is a tendency to confine morality to the motive, or at least to the intention with which anything is done. I shall take occasion later on[1] to discuss the influence of motives ; for the present I shall merely say that if we understand morality as I have endeavoured to explain it,[2] it will plainly include not merely acts of the will, but all such acts of the body as are capable of being intelligently guided. And, as a matter of fact, does not the ordinary man of sense, whose mind has not been twisted by metaphysical speculations, regard as right or wrong the external act of saving a drowning man or stabbing one who is innocent, and not merely the internal act of will which prompts

[1] See Book II., Chap. I.
[2] *Supra*, Chap. I.

to, or guides, this external operation. It is not merely the intention to defraud, but the means taken to effect that purpose, that is set down as immoral. The external act is out of order just as much as the internal; and wrong, as we have seen, and the inordinate are formally identical.

Material morality, therefore, is that relation of right or wrong, order or disorder, which is present in acts which are capable of being directed by the will, whether they belong to the intellect or to the body. Formal morality belongs to acts of the will.

4. **Does the External Act Increase Morality?**—Writers on moral theology are wont to discuss the question whether the external act adds anything to the morality of the internal act of will; whether, for instance, it is more immoral to commit murder actually, with malice, than merely to have the same malicious intention and fail to give it effect. It seems to me that there is greater de-ordination when the external act as well as the internal is out of order, although there may not be more liability to blame or responsibility before God.

On the one hand it must be acknowledged that it is not merely the act of will that is right or wrong, but the external act also; from which it follows that when this external act is out of order, the amount of disorder, or moral evil, in the world is increased. On the other hand it appears reasonable to say that just as responsibility attaches to the act of the will and is conditioned by knowledge, it increases or decreases proportionately with these internal acts alone. This, I admit, is a debatable question. Judges, I imagine, are wont to inflict a somewhat lighter punishment when the evil effect has not corresponded to the wicked intention. This may be due to a feeling that men are liable to be mistaken if they judge of a criminal intention except from the effectual production of the crime itself. God is liable to no such error; and it does not seem unreasonable to say that when we stand before his tribunal, our merits and responsibilities will be measured entirely by the intentions we had when performing our actions, good as well as bad.

5. **Radical, Philosophical, and Theological Morality.**—Remark, now, that there is nothing almost which the will

may not embrace under one or other of many aspects. One might take food, for example, either because it is useful for health ; or because, as useful, it is in order,—that is, a right thing to do in the circumstances ; or because it enables one to do God's work in the world,—and therefore, in some way, for God's sake. Similarly, one might eat or drink to excess, knowing either that over-indulgence diminishes comfort and usefulness, or that it is wrong, or that it is displeasing to and forbidden by God. That these various aspects of temperance and intemperance, and of corresponding will, are possible, is manifest from the fact that different individuals are led by one or other of these various considerations to eat or to abstain. Be careful, however, to remember, that the formal act of will which is present in one who eats merely for health sake, is entirely different from the formal act which is present in the will of one who eats in order to be in a position to work for God. One of the two agents loves his health ; the other loves God, or something connected with him.

Here, accordingly, we are introduced to a distinction of importance,—between *radical*, *philosophical*, and *theological* morality. The morality of the pure Utilitarian is *radical*, so called because, in the run of cases, as we have seen, it is the root of the true moral order ; actions being, as a rule, right or wrong, according as they are useful in the physical order or the reverse. An atheist might go farther, and say that intemperance, for instance, is not only harmful but wrong or out of order. This, as we have seen, is quite a different concept from that of mere physical utility ; hence he who avoids intemperance as wrong, has an aversion for, or hates, something different from mere physical evil. His act, therefore, is not only radically but formally right ;—with, indeed, a low kind of form, such as a philosopher may attain to before he comes to a knowledge of God. It is, therefore, usually called *philosophical* morality. When, however, one comes to know God, and that he may be served by observing the laws of nature which he has established, or disobeyed and offended by setting these laws at nought, one is in a position to do the right and avoid the wrong precisely because God is pleased or even obeyed by one line of conduct, and displeased or disobeyed by the other. What one wills under the light of this knowledge is no longer merely the right or the wrong, but has a theological character ; and the morality of such an act, as distinguished from the

philosophical morality of the atheist, may be called *theological*.[1]

6. **Morality and Duty.**—Some may object to the possibility of purely philosophical morality, on the ground that morality of every kind is equivalent to duty, this again to obligation, which, in turn, implies the existence of a superior with power to make binding laws.

"We cannot," writes Professor Calderwood,[2] "interpret such a maxim as this—'Honesty is right,' without regarding it as equivalent to this—'I ought to be honest.' Every ethical rule presents one phase of the Ought."

He goes on to identify these two principles, "Benevolence is right," and "Thou shalt be benevolent." Now it seems to me quite plain that knowledge of obligation—true obligation—supposes knowledge of some one who has a right to bind and is able to keep us to our duty. In this way it would appear that knowledge of morality—true morality of any kind—supposes knowledge of God and can arise only in the mind of a convinced Deist.

The fallacy in the argument, as it seems to me, lies in the premise which identifies right and duty. An action may be right, if done, although the agent is in no way bound to do it. What would become of us if we were bound to do all that would be right if it were done?

Professor Calderwood identifies these two expressions, "Benevolence is right," and, "Thou shalt be benevolent." Whenever, then, some one asks me for a loan or an alms, am I bound to give, unless it be wrong for me to do so in the circumstances? Blessed are they who, when they have been smitten on one cheek, turn the other to the smiter, or who give the tunic to the robber who has just taken the cloak: but are we bound to do this? Is one bound to fast and pray as often as these exercises are not positively out of order? Common sense proclaims that right and duty—in the sense of what one is bound to do—are not identical. One might, therefore, be aware of the

[1] The term "philosophical sin" is well known to those who are acquainted with the writings of the moral theologians. I cannot say that I have seen anywhere the term "radical morality." One sees statements to the effect that certain prohibitions "radicaliter ad legem naturalem pertinere possunt" (Lehmkuhl, *Theol. Moral.*, Vol. I. n. 186); and I think it would be admitted by all Catholic writers that the natural law is so called because it is rooted in nature. Theological sin or morality seems to be a convenient term whereby to designate the sin or wrong which is not merely philosophical.

[2] *Handbook of Moral Philosophy*, Part I., Ch. 5, n. 1.

first, though not of the second: in other words, philosophical knowledge of morality is not necessarily a knowledge of duty of any kind, still less of duty towards God.[1]

It is another question how far merely philosophical considerations of right and wrong would avail in practice to curb human passions, so as to keep men right when they are exposed to temptation. This question will come up for discussion later on.[2]

7. **Morality and Last End.**—Catholic theologians, as a rule, after St. Thomas, include in the concept of morality some notion of the relation which the act that is represented as moral bears to the last end of the agent. I find it difficult to see why this precise notion should be necessary, either for the concept of philosophical morality,—which is true morality, though imperfect,—or even for the less perfect grades of theological morality. Take an action precisely as it is a compliance with a divine command; restitution of stolen goods, for instance, precisely as this has been prescribed by the will of God. Is not that action, under that precise formal aspect, not only truly, but even theologically, right? It has not, I admit, the highest form of rectitude; but that is not the question. If it is truly right, then, since the aspect of compliance with a divine precept, formally and as such, does not include any aspect of relation to the last end, it would appear as if the notion of this relation were not essential to the notion of true morality.

I am not prepared to deny that one could not commit a mortal sin except the act or omission in which the sin consists is conceived as something more than disobedience even to God. It should be, in some way, a turning of oneself away from the last end. The reverse notion—of conversion to the last end,—probably, enters, by a kind of analogy, into the notion of true merit; and it is not unreasonable to contend that moral goodness or badness is not perfectly complete, unless it comprises a relation of conversion to the last end, by may of full merit, or aversion from the same, by what is known as mortal sin. This aspect of the question is so important that I think it better to reserve the treatment of it for a later chapter.[3]

[1] See Note at end of this chapter. For a discussion of the question whether a purely philosophical sin may be actually committed, see Chap. XI.

[2] See Chap. XI., Sec. 6 (p. 131).

[3] See Chap. XI.

NOTE TO CHAPTER VI.

The Schoolmen's Notion of Duty.

I find it difficult to get at the exact meaning of the word "duty" as it is used by many modern writers on ethics, those especially of the school of Kant. Sometimes, as in the passage quoted from Professor Calderwood's book, it seems to be co-extensive with "good" or "right;" while at times, especially in statements as to the existence of a Supreme Being, it is represented as a relation of obedience to the will of such a Being. The same applies to the notion which is conveyed by the word "ought."

The writers of the School, who derived their ethical notions principally from Aristotle through St. Thomas, contemplate other duties besides that of obedience, and yet would not dream of identifying the notion of duty with that of right conduct. They regarded as due all and only those relations which combine to form what is known as the justice group of virtues, embracing not only obedience to laws human and divine, but gratitude, fidelity to promises, respect, piety, and religion, besides legal, distributive, vindicative, and commutative or strict justice, as well as the minor branches into which several of these virtues may be sub-divided.

The characteristics whereby the virtues which constitute this justice group of moral relations are distinguished from those of the temperance and fortitude groups, are a distinction of persons (altereitas) and the due: hence the word "duty" (debitum). According to the character of the distinction, more or less perfect, between the person who owes the debt and the person to whom it is owed, as also by reason of some diversity in the nature of the relation of debt itself, duty is regarded by the Schoolmen as being more or less strict in its character. Strict duty is found only where the persons are quite distinct and where what is due is equal to what has been received; other duties falling short of this are considered duties only by some kind of analogy. In each case, however, there is some kind of distinction of person and some kind of debt or due. Thus, gratitude is not as strictly due as obedience, nor this again as money due by contract. All, however, are due in some sense and for that reason belong to the justice and not to the temperance or fortitude group of virtues.

St. Thomas writes (2, 2, q. 77, a. 1):—

"Justitiae proprium est inter alias virtutes ut ordinet

hominem in his quae sunt ad alterum . . . Aliae autem virtutes perficiunt hominem in his quae ei conveniunt secundum seipsum. Sic ergo illud quod est rectum in operibus aliarum virtutum, ad quod tendit intentio virtutis quasi in proprium objectum, non accipitur nisi per comparationem ad agentem; rectum vero quod est in opere justitiae, etiam praeter comparationem ad agentem, constituitur per comparationem ad alium."

And again (2, 2, q. 80) :—

" In virtutibus quae adjunguntur alicui principali virtuti duo sunt consideranda : primo quidem quod virtutes in aliquo cum principali virtute conveniant ; secundo quod in aliquo deficiant a perfecta ratione ipsius. Quia vero justitia ad alterum est, omnes virtutes quae ad alterum sunt possunt ratione convenientiae justitiae annecti. Ratio vero justitiae consistit in hoc quod alteri reddatur quod ei debetur secundum aequalitatem. Dupliciter ergo aliqua virtus ad alterum existens a ratione justitiae deficit : uno modo, in quantum deficit a ratione aequalis ; alio modo, in quantum deficit a ratione debiti."

From this " debitum " we get our word " debt," which is the same as " due " or " duty." To every form of debt in the debtor or person who owes, there corresponds a form of right (jus) in the other personal term of the relation.

There is no reason why an Atheist or an Agnostic may not be aware of all these relations of duty, with the exception of one or two, such as religion and obedience to divine law. He may see not only that it is right to be truthful and wrong to tell a lie, but that it is due to those to whom we speak, if we speak at all, to do the one and to avoid the other. He may know that obedience to laws constitutionally enacted and respect for property and human life are necessary for social welfare ; and may feel that he owes something to the butcher, the tailor, or the cook, for their goods or their personal services ; as, on other titles, he owes gratitude to benefactors, respect and obedience to superiors. All these are different species of the relation of duty,—the debitum or debt which self-guiding agents owe to others ; according, at least, to the Scholastic philosophy, which manifestly expresses in this matter the intuitions of the race.

Chapter VII.—Indifferent Acts.

1. **Some Acts of Men Do not Belong to the Moral Order.**—In considering how many kinds of moral actions there may be, the first question that arises is, whether, in addition to the two main classes—of right and wrong actions—and as co-ordinate with them, we should set down those acts which are indifferent,—that is, neither right nor wrong, though in the moral order.

In explanation of the final clause of the last sentence, I beg to recall to your mind what I have already established,[1]—that there are acts, such as the secretion of gastric juice or the beating of the heart, which men perform, and which are neither right nor wrong, simply because they are not in the moral order at all.

In this connection I find it stated by a celebrated Dominican theologian, Billuart, that

"No one doubts that indeliberate actions which proceed from the imagination or the impulse of nature, [are indifferent], as, for instance, to stroke one's beard, or move a hand or foot. For as these, inasmuch as they are not free, are not human and moral acts, it is plain that they are neither good nor evil morally."[2]

It is impossible, as I think, to reconcile this with what is taught by all Catholic moralists without exception,—that an act which is not free may nevertheless be materially sinful. Murder or blasphemy committed in a state of drunkenness or insanity is regarded by all Catholic writers on morals as a material sin; and surely material sins are not outside the moral order.[3]

I find another set of actions set down by Fr. Lehmkuhl as outside the moral order, and therefore indifferent,—those about which we can never know, with anything like certainty, whether they are right or wrong:—

"Whatever questions are beyond the human mind to solve, and are not solved by divine revelation, may, indeed

[1] *Supra*, Chap. I., Sec. 6.

[2] "Non est quaestio de actibus indeliberatis qui ex imaginatione vel naturae impulsu procedunt, ut plerumque fricare barbam, manum aut pedem movere. Hi enim, cum non sint actus humani et morales, defectu libertatis, satis constat non esse neque bonos neque malos moraliter."—*Summa Summae*, De Act. Hum. Diss. 4., Art. 6.

[3] Compare *supra*, Chap. I., Sec. 6 (p. 7).

belong to the natural law, radically, but not formally, for want of sufficient promulgation." [1]

Ethics is like any other science. And as the human mind will never succeed in exhausting all the mathematical formulæ that may be known, so that there will be always some about which no man can say whether they are true or false ; so there will always be human actions,—at least in the order of possibility—about which we cannot know whether they are in or out of order. So far this is undeniable. And yet, I imagine that, just as in mathematics a really true formula is not the less true, and therefore not less in order, because it is obscure, and follows so remotely from known principles that we can never hope to discover whether it is true or false ; so any right action —any act which is really in order—does not cease to be so, merely because men may not see it as it really is, or may not hope to attain certain knowledge of its objective moral condition. I cannot, therefore, regard such acts as being truly indifferent.

I prefer to hold that it is now either true or false,—and therefore either right or wrong objectively,—to say that the number of stars is odd, though it is impossible for science to discover whether it is true or false. So, also, it was true,—and therefore right,—from the beginning, to say that there are three persons in God, though it was absolutely impossible to know this except by revelation, which was not made till later on. And as even now there are mysteries of the divine nature which have not been revealed, any proposition which might express one of them would be true, and the expression itself right, even though it is impossible to know whether the proposition is true or false. Technically speaking, it may be true, as Fr. Lehmkuhl says, that as the key to such mysteries is not contained in nature, the law regarding the utterance of propositions regarding them has not been promulgated. This would prove, at most, that to deny these truths would not be disobedience or violation of duty ; it does not prove that the act would not be objectively wrong, but only indifferent.

2. **Not a Question of Referring Acts to God : First Supposition.**—The question as to the possibility of in-

[1] "Quae pro humana mente prorsus insolubilia manent, neque divina fortasse ope praestita re solvuntur, radicaliter quidem ad legem naturalem pertinere possunt, formaliter non pertinent, eo quod deest sufficiens promulgatio."—*Theol. Mor.*, vol. i., n. 186.

different acts is not infrequently argued as if it depended on, or were equivalent to, another question,—as to how far men are bound to refer their actions to God; that is, how far they are under obligation, by law, to intend their actions as part of the service which is due to the Creator and Sovereign Lord.

It is contended on one side that there is such an obligation, and consequently that no act is good unless it be done for God in some way. Without this reference it ceases to be good, and becomes bad, even though otherwise it should be indifferent.

Others deny this obligation, and think that by showing that the precept does not exist, they have proved that there are such things as indifferent acts; since what is in itself indifferent will remain so, if there is no ulterior obligation of reference to a divine master. An act, they say, such as eating with moderation, or taking reasonable recreation, becomes good if done with a view to serve God. It is bad if done for any inordinate purpose. But it remains indifferent if done merely for its own sake, at least when there is no obligation of serving God there and then.[1]

This, as it seems to me, is a mistaken line of argument, whatever opinion you may hold as to the obligation of referring all acts to God. For, suppose, in the first place, that there is such an obligation; what effect has that on the action as performed? The agent, indeed, will sin if he does not make the reference; but will this sin be one of commission or rather of omission? Suppose he rescues a drowning man, doing this entirely for the sake of the rescued man and out of sympathy, and abstaining,—deliberately, if you will,—from any higher motive or reference. He neglects his duty, indeed, on the hypothesis that he is bound to refer this act to God; but does this make it wrong to effect the rescue? Is not what is done right and good? And is not the doer wrong only in not complying with a further duty?

The same applies to such an act as walking or singing. If it may be made good by being referred to God, why is it not good before being so referred? What is "good"? It is, as we have seen, the same as "right" or in "order." But the external act of singing or of walking is precisely the same whether it is done for its own sake or for God's. If it is in order,—and therefore good—in one case, it is so

[1] See Most Rev. Dr. Walsh, *De Act. Hum.*, n. 593; *cf.* nn. 621, 623.

in both. If it is not in order, its deordination will not be affected in the least by any intention on the part of the agent.

3. **Alternative Supposition.**—Suppose, on the contrary, that, as the other side insist, there is no obligation of referring all one's acts to God; why should it result from this that some of these acts may be indifferent? Suppose I take sherry at dinner rather than beer or water, not referring my choice to God; why should it be merely indifferent and not good,—that is, if it is not bad? For again I ask: what is good? Good is "right," "in order." Now, if taking sherry in the circumstances may be made good by being referred to God, why is it not good—that is, in order—beforehand? If I were to take poison, I could not make it good, no matter how I referred it; the reason being that taking poison is inordinate. So, if sherry were not good for me in the circumstances, any amount or kind of reference would not make it good. Hence, when, as against the theologians of the stricter school, you have proved that there is no obligation of referring all acts to God, the result is, not what you assert,—that certain actions may be indifferent; but rather that these acts which you are disposed to regard as indifferent, are good in the moral order.

The entire argument can be put briefly thus:—Good is right, in order; bad is wrong, out of order. Now, between being in order and out of order there is no possibility of a mean, any more than there is between straight and crooked. Whatever, therefore, is not out of order and bad, is of necessity in order and good; there is no place for indifference, provided the act is in the moral order at all. A good external act, indeed, may be accompanied by a bad intention or act of will, and *vice versa;* or there may be an accompanying deliberate neglect. The result of this, however, is, not that the good act becomes bad, or the bad good; but that, while the material part retains its material goodness or badness, the formal part also may be either good or bad. There is no reason why either should be regarded as indifferent.

4. **Acts not to be Judged as Complex Wholes.**—It may be urged that when the question is raised whether there is such a thing as an indifferent act, the act which we contemplate is the complex whole, composed of external action

and interior intention; and as this whole is not of necessity made bad by not being referred to God, on the hypothesis that men are not bound so to refer all their acts; and as it is not good, either,—since, if not so referred, it will not deserve reward,—it follows that it must remain indifferent.

There are two reasons why I cannot accept this view. The first is, that in judging of the morality of acts we do not look at the complex whole, but take the parts asunder and view them separately. An anarchist, let us say, shoots a king or a statesman, intending thereby, however foolishly, to benefit mankind. How do we judge of his act? Every man of sense distinguishes between the external act of shooting and the internal intention, regarding the one as evil, the other as good. Or, to put it the reverse way, suppose a debtor pays what he owes, out of cowardice, or in order thereby to gain a character for honesty and be in a better position to accomplish a fraud; no matter how bad his act of will may be, does he not do right in paying his debt? We do not advert to any necessity of distinguishing in this way, as long as the act of will is such as to supply the natural form of the material action. When, however, matter and form do not correspond, we at once perceive the necessity of the distinction, and prove thereby that it is not on the complex whole, as a whole, but on the parts as parts, that we are wont to pass judgment.[1]

The second reason why I cannot accept the proposed explanation is, that it supposes these two to be the same: to be good and to deserve a reward. It seems to me that an act may be good without deserving any reward, just as it may be bad without deserving punishment. There are such things as material sins, acts of the organs or of the intellect which are wrong but not wilfully so. One does not deserve punishment for any error into which one may have fallen in good faith; but it is an error all the same. So, too, it is evil to cause directly the death of an innocent person, although the man who does it deserves no punishment if he acts in good faith. The same exactly applies to good acts. It is quite possible that God may not reward any action, no matter how excellent in itself,—even though one were to distribute

[1] See what is said regarding motives. *infra*, Book II., Chap. I., Sec. 4 *sqq*.

all one's goods to the poor, or give one's body to be burnt,—unless it is done for himself: but that will not make it other than good to feed the poor or rescue children from a house on fire. These acts are good, though, very possibly, not so good as to merit a reward, unless, in addition, they are intentionally done as part of the service we owe the Remunerator.

5. **Formal Conclusion: Teaching of St. Thomas.**—Accordingly, however I may be inclined to agree with the disciples and interpreters of St. Thomas, that men are bound to perform all their actions in some way from a motive of regard for God; and to believe especially that if good actions are not done in this way, they do not entitle one to any reward from him; nevertheless I do not agree that these same actions become bad for want of such a reference. Neither, however, can I agree with the Scotists that an act which is good if referred to God, remains indifferent if not referred. If it is good when referred, it is good in every case, however much the agent may sin, by omission in not referring, or even by commission in performing his good act from an inordinate motive.[1]

In his treatment of this question, Dr. Walsh quotes from St. Thomas many passages to prove that "the Angelic Doctor goes even farther than the Scotists, not only denying that there is sin in those acts that are not referred to God, but maintaining, on the contrary, that they are morally good, unless otherwise tainted."[2] This exactly is my opinion. I cannot, however, agree with what Dr. Walsh had stated previously, that "an act is said to be regarded *in individuo*, when not only the object of the act, but the circumstances also, and the end which the agent had in view, are taken into account."[3] Nor can I admit that "as often as a human act is performed it emanates from one who proposes to attain some end."

[1] See what is said on the influence of motives, *infra*, Chap. XI., Sec. 5.

[2] "Videbitur Angelicum ipsum Doctorem ulterius, ut ita dicam, quam Scotistae hic progredi, quum non solum neget moraliter malos esse actus qui ita fiant, sed e contrario doceat eos, nisi aliunde vitientur, moraliter bonos esse."—*De Act. Hum.*, nn. 674 *sqq.*

[3] "Actus dicitur spectari in individuo, quum inspiciuuntur non solum objectum actus, sed etiam circumstantiae et finis operantis. . . Quoties perficitur actus humanus, v. g. furandi, ambulandi, necessario perficitur in aliquibus circumstantiis, atque ab agente qui finem aliquem sibi proponat."—*Ibid.*, n. 590.

Of course it is a question as to what one means by a "human act." As I use the term, it means exactly the same as "an act in the moral order" performed by a man; and, surely, material sins are in the moral order, and may be sometimes committed by one who not only does not propose to attain some end, but has no act of will whatsoever while his organs are in action.

Chapter VIII.—Obligation, Responsibility, Free-Will.

1. **Difference between Right and Duty.**—I have already[1] called attention to the difference between right and duty, and introduce the subject here again with a view, principally, to lead up to a similar and very important notion,—that of responsibility. Good, as we have seen, is whatever is in order. This is not necessarily the same as duty ; as may be made plain by a hundred examples. One is rarely, if ever, bound to the best, though the best is always good. It is even true to say that in most cases one is not so much bound to do good as to avoid doing evil ; this, however, is equivalent to a positive obligation to do good, whenever not doing so would be out of order.

In modern times it is especially important to distinguish carefully between the two notions of right and duty, as the tendency to confound them is very pronounced not only among those who seek, outside God, for a sanction of the moral order, but even among those Theists who are inclined to base their religion on the categorical imperative of Kant.

It is easy to understand how Atheists and Agnostics have been led to identify the notions of right and duty. The latter term, like " religion," is eminenly respectable, and therefore not to be lightly laid aside ; it gives a system a good character. The world is not, as yet, prepared to extend toleration to one who would boldly proclaim that there is no such relation as that of duty. And yet, unless men are free to attach private meanings to their words, surely there can be no duty unless it is due to some one ; no obligation unless some one is able to oblige us ; as there can be no religion unless there is some one who deserves to be worshipped.

2. **Mr. H. Spencer on Duty.**—In this connection it is instructive to read Appendix C. to Mr. Spencer's *Principles of Ethics*. It comprises correspondence between

[1] Ch. VI., S. 6. Throughout this chapter " duty " is taken in the sense in which it is now usually understood by almost all non-Catholic writers, and by many Catholics, as signifying the special relation of obedience to the law of a Supreme Ruler. For other significations see the note at the end of Chapter VI.

the Rev. J. Llewelyn Davies and Mr. Spencer, together with some remarks of the latter. Mr. Davies had said :—

"Whilst he (Mr. Spencer) confines himself to tracing Natural Evolution, he has no right to use the terms of duty. What can be added to the dictum of Kant, and how can it be confuted? If we fix our eyes simply on the course of nature, the ought has no meaning whatever. It is as absurd to ask what nature ought to be as to ask what sort of properties a circle ought to have. The only question we can properly ask is, What comes to pass in nature? Just as we can ask, What, actually, are the properties of a circle?"

To this Mr. Spencer replied :—

"In asserting the illegitimacy of my use of the words 'duty,' 'ought,' 'obligation,' &c., you remind me of the criticisms of Mr. Lilly. By such community as exists between you, amid your differences, you are both led to the assumption that the idea of 'duty' can have no other than a supernatural origin.

"This assumption implies that men's actions are determined only by recognition of ultimate consequences, and that if recognition of ultimate consequences does not lead them to do right, they can have no motive to do right. But the great mass of men's actions are directly prompted by their likings, without thought of remote results; and among actions thus prompted are, in many cases, those which conduce to other men's welfare. Though, on reflection, such actions are seen to be congruous with the ends ranked as the highest, yet they are not prompted by thought of such ends.

"The relation of direct to indirect motives is best seen in a familiar case. Any normally-constituted parent spends much labour and thought in furthering the welfare of his children, and daily, for many years, is impelled to do this by immediate liking—cannot bear to do otherwise. Nevertheless, while he is not impelled to do what he does by the consciousness that he *ought* to do it, if you ask the reasons for his self-sacrificing conduct he will say that he is under obligation; and if you push your inquiries to the end, you will compel him to assign the fact that if men in general did not do the like the race would disappear. Though the consciousness of obligation may serve to justify, and perhaps in a small degree to strengthen, the promptings

of his natural affections, yet these are quite sufficient in themselves."

Mr. Davies rejoined :—

"I have no difficulty in acknowledging that the performance of good offices may arise out of sympathy and pleasure in doing them. I do not understand why 'the assumption that the idea of "duty" has a supernatural origin' should be supposed to imply 'that men's actions are determined only by recognition of ultimate consequences, and that if recognition of ultimate consequences does not lead them to do right, they can have no motive to do right.' I never thought of questioning that men act, in a great part of their conduct, from the motives you describe. What I wish to know is why, when the thought of duty comes in, a man should think himself *bound* to do, whether he likes it or not, what will tend to the preservation of the species. It is quite intelligible to me that you cannot help trying to protect other men from wrong: what I still fail to see clearly is, how your philosophy justifies you in reproaching those who *can* help being good. It is nature, you say, that makes the thoughtful parent good, that makes the generous man sacrifice himself for the benefit of his fellow-men. But nature also makes many parents selfishly regardless of the interests of their children, nature makes some men hardened free-booters. If they also cannot help being what they are, is there any sense, from your point of view, in saying that they act as they ought not to act? Would they feel that you were appealing to their sense of duty if you explained to them as a fact of nature that, should other men do as they are doing, the race would tend to disappear? To Mr. Huxley, as a philosopher, a taste for good behaviour belongs to the same category as an ear for music—some persons have it and others are without it; the question which I cannot help asking is whether that is the ultimate word of your ethics. I cannot see how a man who is made aware that he acts only from natural impulse can reasonably consider whether he ought or ought not to do a certain thing, nor how a man who knows that he acts only for the gratification of his own desires can reasonably throw himself away for the sake of any advantage to be won for others."

In reply to this Mr. Spencer remarks that "Mr. Davies and those who take kindred views, tacitly assume that the conception of 'ought' is a universal and fixed con-

ception ; whereas it is a variable conception, and is in large measure relevant to the social needs of the time being." He proceeds to point out how things which with us are commonly regarded as breaches of obligation, are considered duties by other men.

" The truth is," he adds, " that every desire, seeking, as it does, gratification, carries along with it the idea that its gratification is proper or right ; and when it is a powerful desire it generates, when it is denied, the idea that the denial is wrong. . . . Similarly the consciousness of ought as existing among men of superior types, is simply the voice of certain governing sentiments developed by the higher forms of social life, which are in each individual endorsed by transmitted beliefs and current opinion—a sanction much stronger than that which any of the inferior feelings have."

The question, however, is not whether other men may think themselves bound to do what we regard as wrong, nor whether men are likely to regard as right or wrong what they strongly desire to acquire or to avoid ; but rather why is a reasonable man to look on himself as " bound " in " duty," or " obliged," to do or to avoid what he for the time being, under whatever influences, regards as right or wrong ? Suppose he fails to do or to avoid it : he is wrong ; but why is he lacking in " duty " ? Or why does he fail to satisfy his " obligations " ? It is the use of these and kindred terms that Mr. Spencer and those who think with him are called on to justify.

3. **Origin of Notion of Duty, according to Disciples of Kant.**—With the disciples of Kant the temptation takes a different form. They are not content with the proofs of the existence of God which the Schoolmen were wont to draw from external nature, and they fall back on some kind of mental form which represents to them, they think, in an overmastering manner and as a kind of first principle, the notion of duty or the " ought ; " with the result that they can no more refuse to accept this than they can bring themselves to deny the existence of the external world or the axioms of mathematics. From the " ought " or " obligation " thus conceived they are led almost immediately to form, with an equally stringent necessity, the notion of one who has right and power to bind, and who reveals himself, so to speak, in the moral order.

Even among Catholics there have appeared, especially

within recent years, some men of undoubted ability who symphathize more or less with this method of establishing a basis for religion. Thus, Mr. Lilly writes :—

" Prudence is one thing, duty is another. Prudence rests upon the calculations of self-love. Duty means abnegation of self and obedience to the unconditioned command of right. The first note of moral law, as of all law, is obligation."

And again :—

" The presence in our consciousness of the first principles of morality is an indubitable fact. As surely as I am conscious of myself, so am I conscious of moral obligation. . . . I wish, just now, to go merely by the facts of human nature. And one of these facts—a primary one—is, I say, the sense of ethical obligation." [2]

As against this I think it may be said with justice that the primary moral concept is not " duty " so much as " right," in the sense in which I have explained the latter term. And although wrong—the formal opposite of right—may be truly said to involve the notion of duty or the " ought," inasmuch as it is a duty in every case to avoid what is out of order ; yet I doubt whether the notion of " ought " or duty, which is in this way inseparably connected with wrong, is the same as that " ethical obligation " which the disciples of Kant have before their minds and on which they base their further arguments. Wrong, as the formal opposite of right, is simply " not right "—out of order ; it is not yet, as it seems to me, quite the same as " what I am bound to do by a superior will." True, indeed, if a free agent deliberately sets himself to do what he knows to be wrong, he acts badly,—inordinately ;—and may be justly punished, in case there should be some one who, having established the outraged order, cares to vindicate and restore it. It is, however, one thing to say that doing wrong exposes one to be punished without injustice, and another thing to hold that one could not have even the concept of wrong, unless this were accompanied by that of a superior whose law is violated in wrong-doing. As far as the concept goes, there might be wrong done,—there might be inordinate action,—even though there were no superior. We shall see later on whether, as far as concerns the logical order, there might

[1] *On Right and Wrong*, p. 48. [2] *Ibid.* p. 100.

not be wrong in the world, as there is physical evil, even though God were not only not conceived but non-existent; —in other words, whether the existence of God follows logically from the existence of moral evil.

4. **Author's Notion of Duty.**—By duty or obligation, accordingly, I mean, not exactly right and wrong, but right and wrong to which one is bound; understanding thereby an order of right and wrong which is enforced by the will of a legitimate superior. It is not necessary to state that, in my opinion, the moral order is actually so enforced, in the sense that there is a superior who, as founder of the moral as well as of the physical order, binds all intelligent creatures to respect both. But it is one thing to say that wherever there is wrong there is also duty or obligation, and a very different thing to assert that the two concepts, "wrong" and "duty" or "obligation," are identical. If this were so, then "right" also should be identical with "duty," and we should be bound to do whatever is not out of order.

5. **Notion of Responsibility.**—Let us pass now to the notion of responsibility. It will be admitted, I think, that men are not held responsible for all the evil they do,—even for the violation of their duties or obligations. The latter part of the assertion may appear strange, at first, to such as have not been accustomed to the idea of material sin, or who have been wont to regard such sin as belonging to the physical, rather than the moral, order.

It is plain that there is a true sense in which children and lunatics are not held responsible for their acts. Their guilt is not complete, in some way; it is not *formal*, as the Schoolmen say. We put lunatics under restraint, when they show signs of harming either themselves or others; but even though they do the harm, we do not consider them fully guilty, nor do we punish them as we punish criminals. The same applies to those who, although enjoying the full use of their faculties, do evil through ignorance or inadvertence; as when a nurse administers poison thinking it to be wholesome medicine.

Now, if you reflect a little, I think you will see that we are all accustomed to regard injurious acts of this kind as belonging in some way to the moral order. One may be injured either by a falling tree or by a shot fired, through inadvertence, by a friend; and one expects the

friend to apologize, but not the tree. The action may have been equally necessary—unavoidable—in either case, but there is some difference. Why is it lawful in time of war to kill the soldiers of the enemy? Not, surely, because they are as guilty of wilful murder as if they shot down our soldiers in time of peace. We give them credit for good intentions, yet we kill them.

You will say, perhaps, that we are justified in killing them as a means of self-preservation,—lest they should kill us. Why, then, not kill those who may kill us by communicating pestilence, which is more deadly than war? You may urge that in case of pestilence there is another way open,—to isolate such persons as are already affected, shut them up in quarantine, and depend on medical inspection. But what if there were no possibility of inspection or isolation? if plague broke out in a ship at sea, or in any of the thousand possible sets of circumstances that might be mentioned? The essential difference, as it seems to me, between the soldiers of the enemy and the plague-striken citizen, is, not that the soldier is a source of danger as long as he is not taken prisoner, whereas those who have contracted disease may be so treated as to be made perfectly innocuous; but rather that the soldier, not the plague-striken citizen, is an unjust aggressor,—materially and truly, though not formally, unjust. We regard him as violating our rights,—as taking part in an unjust war. Now, an unjust act, even when the injustice is only material, is plainly in the moral order; and so there is moral evil and violation of duty, for which the agent is not held responsible.

I do not suppose that those who, like Catholic moralists, are familiar with the notion of material sin, will have any difficulty, when they come to think over it, in accepting this doctrine. No one is punished for a sin which is purely material, no matter how grievous it may be. But, surely, material sin is a deordination of some kind, at least, in the sense that it is material out of which, in part, a full sin could be made. A lunatic kills a friend, and a mad dog bites his master; there is disorder in both cases, but only in one is there any violation of the moral order. The act of the dog is harmful, but not morally wrong; the act of the lunatic is morally wrong, although he himself is not held responsible for the wrong-doing.

Responsibility, therefore, supposes more than mere wrong. It is the relation in which one who has done

wrong stands to a superior, when the wrong has been done in such a way as to render the agent liable to be called to account and punished. What has been said of wrong-doers in relation to punishment, applies, *mutatis mutandis*, with regard to reward, to those who do what is good and right.

6. **Responsibility Supposes Free-will.**—I have said that formal guilt, which alone involves responsibility, supposes in the agent something more than material wrong,—something that gives a higher form to the deordination, so as to justify us in regarding the evil-doer as guilty and deserving of punishment. What is this?

It is not an act of intelligence merely, since an error of judgment involves intelligence and yet may be materially sinful. The same reason goes to show that it is not merely an act of the will; for it is not true to say that lunatics and children do not exercise their will when they do evil things. It is an act of free-will; an act by which the agent deliberately chooses to do what he knows to be wrong, when he might abstain; or, *vice versa*, chooses what is good and right, when he need not do so. I cannot conceive how any one could reasonably be held responsible for evil done, unless it be known that he could have abstained from doing it. As well think of punishing the sun for the heat which causes sun-stroke, or the cloud for the lightning flash, or the mad dog, or the lunatic, as the man who commits the most atrocious murder, if he could not have abstained from doing as he did. Restrain him if you will, as you would restrain an avalanche or a flood; train him, as you would train a horse or a dog; but do not punish him. Pity him as you pity one who is stricken with leprosy; nay, even, hate him and avoid him, as you hate the small-pox and avoid wild beasts; but why hold him responsible or regard him as guilty by reason of what he has done?[1]

[1] The following, which I find in Mr. George Forester's *The Faith of an Agnostic*, is too good to be passed over in silence:—"If we give up free will, then (*pace* Professor Huxley) we must give up moral responsibility with it. And this, in practice, we cannot do. We are bound to assume that men are free agents and responsible for their actions. We cannot contemplate the bouleversement that would be occasioned by the general acceptance of the doctrine that there is no such thing as human free will, and therefore no moral responsibility. We could not preach such doctrine, even if we believed it, to 'the man in the street.' It would be the one exception to the general rule that Truth is never harmful—the one case for a *suppressio veri*—for 'the economy of Truth.'" In a previous chapter

7. **Guilt and Punishment: Ordinary Notion.**—Mr. J. S. Mill does not see any difference between looking on a person as bad and hating him or regarding him with aversion, and holding him responsible and punishing him as guilty:—

"My position is," he writes,[1] "that a human being who loves, disinterestedly and consistently, his fellow-creatures and whatever tends to their good, who hates with a vigorous hatred what causes them evil, and whose actions correspond in character with these feelings, is naturally, necessarily, and reasonably an object to be loved, admired, sympathized with, and in all ways cherished, and encouraged by mankind; while a person who has none of these qualities, or so little that his actions continually jar and conflict with the good of others, and that for purposes of his own he is ready to inflict on them a great amount of evil, is a natural and legitimate object of their fixed aversion, and of conduct conformable thereto: and this whether the will be free or not, and even independently of any theory of the difference between right and wrong; whether right means productive of happiness, and wrong productive of misery, or right and wrong are intrinsic qualities of the actions themselves, provided only we recognise that there is a difference, and that the difference is highly important. What I mean is, that this is a sufficient distinction between moral good and evil; sufficient for the ends of society and sufficient for the individual conscience:—that we need no other distinction; that if there be any other distinction we can dispense with it; and that, supposing acts in themselves good or evil to be as unconditionally determined from the beginning of things as if they were phenomena of dead matter, still, if the determination from the beginning of things has been that they shall take place through my love of good and hatred of evil, I am a proper object of esteem and affection, and if they take place through my love of self and indifference to good, I am a fit object of aversion which may rise to abhorrence."

This, of course, raises the question as to the nature of guilt and punishment. Determinists, I fear, have a

entitled "Not What is Satisfying, but What is True," the writer had said:—"We ask for the truth—not indeed 'the whole truth,' for that we cannot have, but at any rate 'nothing but the truth.'" We see how, notwithstanding these lofty professions, even an Agnostic may be economical of the truth which he professes to have, when he finds it would lead to a bouleversement.

[1] *On Hamilton*, p. 590.

convenient method of attaching to terms like these, ideas that suit our own views, without paying the least heed to the traditional meaning; just as in the case of "right," "duty," and "religion." Mr. Sidgwick, when he comes to consider "the effect of Determinist doctrines on the allotment of punishment and reward," regards it as undeniable that "the common retributive view of punishment, and the ordinary notions of 'merit,' 'demerit,' and 'responsibility,' involve the assumption of Free Will." And almost immediately comes a remark which is very true,—in a sense, perhaps, different from that which the writer intended:—"The Determinist can give to the terms 'ill-desert' and 'responsibility' a signification which is very clear and definite, but, from an utilitarian point of view, the only suitable meaning."[1] This is exactly what they do: and it is very confusing, especially as such terms are very common, and are therefore liable to be used by the same writers in the traditional meaning still retained in every-day life.

Let us, however, look at the concepts involved, abstracting, as far as possible, from the traditional meaning of terms,—although, owing to association, this is exceedingly difficult. The question is, as it appears to me, if there be no such thing as free-will, is there any true guilt, responsibility, desert of reward or punishment.

I do not deny that there might be good and evil,—physical and even moral: for, have I not all along maintained that a materially sinful act, which may not be in the least free, is an evil of the moral order? Neither do I deny that when evil results from the action of an agent which is capable of being affected by the memory and the prospect of pain, it may be right and proper, within reasonable bounds, to inflict pain on it when it has done evil, so as to supply it with a motive for avoiding the same in future. It is on this system that dogs and horses are trained; we make them feel that certain acts are likely to result in unpleasantness, knowing that this feeling tends to restrain them from such acts in the future,—that is, if they are not mad, and therefore incapable of being affected in the way we desire.

When, however, all this has been admitted, the question remains, whether evil acts of this kind,—such as rearing or kicking on the part of horses, or breaking fence on the

[1] *Methods of Ethics*, B. I., Ch. V., S. 4.

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part of setters,—are *guilty* acts. Are brutes *responsible* for the evil they do? And is the pain we inflict on them a *punishment* in the strict sense of the word?

I do not mean to deny that the terms "guilt," "responsibility," "punishment," may be applied to actions, states, and relations; and that, if so used,—as they seem to be used by Determinists,—they would have, in the words of Mr. Sidgwick, "not only a clear and definite, but, from the utilitarian point of view, the only suitable meaning." That, however, is not the question, but, rather: is this the meaning that men generally attach to the words? If I were to contend that men should be honoured for their crimes, I could very easily defend my position by saying that, in my philosophy, honour means what men generally understand by contempt. I should thus be attaching to the term "honour" "not only a clear and definite but, from my supposed point of view, the only suitable meaning;" and I should have just as much right to do this as Determinists have to attach a peculiar signification to the words "guilt," "responsibility" "punishment."[1] This method of philosophizing is fruitful of ambiguities, and leads almost of necessity to deception not of others only, but even of oneself,—so intimately are the terms in question associated with other and very distinct ideas.

You may say that the average man is wrong in regarding punishment as a penalty inflicted for any other reason than to improve the evil-doer and for self-protection. Possibly: we shall see immediately. But, surely, the average man has a right that the terms which have come down to him consecrated by centuries of usage, should not be distorted so as to cover a meaning altogether different from what has been so long understood. One is inclined to suspect that there must be something in his

[1] "Neither," says Mill (*On Hamilton*, p. 599—italics mine), "will the criminal feel that because his act was the consequence of motives operating on a certain mental disposition, it was not his own fault. For, first of all, it was at all events his own *defect* or *infirmity*, for which the expectation of punishment is the proper *cure*. And, secondly, the word fault, so far from being inapplicable, is the specific name for the kind of defect or infirmity which he has displayed—insufficient love of good and aversion to evil. *The weakness of these feelings or their strength is in everyone's mind the standard of fault or merit, of degrees of fault and degrees of merit.*" Note the pleasant way of looking on crime as a mere infirmity, like a fever; and on punishment as a cure,—a disagreeable pill, as it were. Surely, it is not true that the standard of fault or merit is in every one's mind the strength or weakness of one's love of good and aversion to evil, independently of free-will.

concept as distinct from his terminology, something that appeals to common sense as reasonable and necessary; else why should those who pretend to find fault with the concept, be so anxious to retain the terms by which, owing to long association, it is best expressed? Determinists show their respect for the old view by arraying themselves in its clothes; just as Materialists do when they speak of intelligence and soul, and Agnostics when they boast of their faith and their religion.

It might seem at first sight as if reformers in ethics had a right to retain old terms, such as "guilt," "responsibility," "punishment," just as reformers in physics make use of the terms "light" and "heat" to designate a thing which is very different from that which was meant two centuries ago. There is a difference. Up to recent times people had no knowledge of the vibration-theory of heat or light: the phenomenon, not its nature, was principally before their mind. They did, however, know of pain caused merely with a view to self-defence or improvement; and they expressly refused to call it punishment. It would be a more exact analogy if Materialists were to insist that men have spiritual souls, meaning thereby—what the ancients meant—principles of intelligence; or if in the time of persecution Christians considered themselves free to offer incense to Jupiter, meaning to worship the supreme God.

8. **Defence of Same.**—I have been arguing on the supposition that correction and self-defence are the only legitimate ends of punishment, as Determinists contend;[1] and that the further concept which I have shown to be in the mind of the average man is quite without reasonable foundation. But is it so? Surely, the principal motive of punishment cannot be the correction of the delinquent, else it would be ridiculous to put criminals to death; or even to imprison them for life, so that they

[1] "There are two ends which, on the Necessitarian theory, are sufficient to justify punishment: the benefit of the offender himself and the protection of others." "If the purpose of punishment be other than that of improving the culprit himself, or securing the just rights of others against unjust violation, then, I admit, the case is totally altered. If anyone thinks that there is justice in the infliction of purposeless suffering, that there is a natural affinity between the two ideas of guilt and punishment which makes it intrinsically fitting that whenever there has been guilt pain should be inflicted by way of retribution, I acknowledge that I can find no argument to justify punishment inflicted on this principle."—Mill, *On Hamilton*, pp. 592, 597.

practically can do neither good nor harm in future. It must be, therefore, in self-defence mainly that criminals are punished by society, especially where the penalty is very severe: this is the only motive which, on Necessitarian principles, can justify the extreme death-sentence.

This, however, leads to conclusions which one would not expect to find advocated by Liberals, such as, curiously enough, Necessitarians usually are. Mr. Mill, at least, was a very pronounced Liberal, and yet he maintained that "the justice of the punishment has nothing to do with the state of mind of the offender, further than as this may affect the efficacy of punishment as a means to an end." The limitation expressed in the last clause, I take it, is inserted with a view to showing why lunatics should not be put to death for injuries committed, because the fear of death is not efficacious to restrain them from committing crime. But would it not have a very wholesome effect on those who are not lunatics, if they knew that everyone who causes the death of another, even though the slayer were insane, must himself be prepared for the same fate? Remember that when the punishment is death there is no question of "curing an infirmity," to make use of Mill's expression, but only of preventing the further spread of the disorder; and, surely, putting to death a lunatic murderer would be a striking object-lesson, and could not fail to produce a wholesome effect, if "the justice of punishment has nothing to do with the state of mind of the offender, further than as this may affect the efficacy of punishment as a means to an end."

In reply to this, Mr. Mill urges[2] that "all the deterring effect which hanging can produce on men who are amenable to motive, is produced by hanging men who are amenable to motive. Hanging, in addition, those who are not amenable to motive, adds nothing to the deterring effect, and is therefore a gratuitous barbarity." Is it true that "hanging those who are not amenable to motive adds nothing to the deterring effect" on those who are so amenable? Would it not tend to make the danger more certain and therefore more to be feared?

Again, what if one were not insane, and yet had, through inadvertence, caused the death of another? Putting such a man to death would, surely, be efficacious, inasmuch as it would tend to make people more cautious.

[1] *Ibid.*, p. 596.
[2] *Ibid.*, p. 595, Note.

Unless, therefore, the offender's state of mind pleads for him, he ought to die. The same applies to prisoners of war, who have either themselves killed our fellow-citizens or have helped to kill them: the death penalty would make these criminals and their like more cautious in future.

I am quite sure that Mr. Mill would not be very severe in such cases; I fear only that his clemency would be exercised at the expense of logic. He leaves us to suppose [1] that he would punish with death crimes committed in obedience to a perverted conscience, on the ground of the necessity of the punishment for attaining a just end. This is consistent; why not, therefore, punish crimes committed during insanity or through inadvertence, on the same ground of necessity? Can it be seriously held that such punishment would not be efficacious, in the way of making others more cautious how they injure their neighbours, any more than it would have any restraining effect on lunatics or mad dogs?

Nay, if we are to test principles once more by applying them to extreme cases, since, according to Necessitarians, death is inflicted mainly in self-preservation, why not, for the same reason, get rid of those who are affected with contagious disease? The measure would be efficacious, surely, as a means of preservation for men as it is for cattle. Mr. Mill would possibly say that it would not be just: he emphasizes the word "just" in this connection.[2] If, however, to stamp out plague would be as efficacious for preserving society as hanging or guillotining those who commit murder with malice prepense; and if, as I have shown,[3] the defence of society alone, on Necessitarian principles, justifies the death penalty; why should it not be as just to asphyxiate and cremate the plague-striken as it is to hang murderers? The only rational ground for a difference of treatment of the two classes, is, either that the cremation of those who have been attacked by the plague would not tend to preserve society from the disease,—which is contrary to all experience in

[1] Page 596.

[2] "Punishment is a precaution taken by society in self-defence. To make this just, the only condition required is that the end which society is attempting to enforce by punishment should be a just one. Used as a means of aggression by society on the just rights of the individual, punishment is unjust. Used to protect the just rights of others against unjust aggression by the offender, it is just."—Page 594.

[3] *Supra*, p. 80.

the treatment of the lower animals;[1] or that something else besides the mere saving of society is necessary as a justification of the death penalty. That something else is what is connoted by or contained in the peculiar concepts of "guilt" and "responsibility" in the minds of ordinary men. It would seem, accordingly, that these concepts are not only justifiable but necessary, if we are not to proceed to hang every one who inadvertently kills another, and cremate all those who may have contracted a contagious disease.

9. **Free-will.**—This, I suppose, is the place to discuss the arguments that have been brought forward by Determinists to prove that the will cannot be free. I must consider myself absolved from the duty of entering minutely into the matter here, and shall content myself with a brief reference to one or two points of special importance.

I know of no author who has treated the question from the Determinist point of view with more ability than Mill; and yet it is easy to discern running through his argument fallacies and gratuitous assumptions that should not have escaped a mind so acute. I refer in particular to the influence of motive on voluntary action. Take the following passage:—

"The question deemed so puzzling is, how punishment can be justified, if men's actions are determined by motives, among which motives punishment is one. A more difficult question would be, how it can be justified if they are not so determined. Punishment proceeds on the assumption that the will is governed by motives. If punishment had no power of acting on the will, it would be illegitimate, however natural might be the inclination to inflict it. Just as far as the will is supposed free, that is, capable of acting against motives, punishment is disappointed of its object, and deprived of its justification."[2]

It is the same thing, apparently, to have the will *acted on* as to have it *governed* by motives; and to be free is to be capable of *acting against* motives. Now, a motive might well act on the will without governing it, in Mill's sense,—determining it; which to the ordinary mind is

[1] As to the possibility of the measure resulting in greater loss of life, see *supra*, p. 13.

[2] *On Hamilton*, p. 592.

the same as necessitating it.[1] Every advocate of free-will admits that a criminal may fear punishment even though he is not thereby restrained from committing the crime. And as for acting against motives, if it means, as the advocates of free-will suppose, that the will is not bound to follow the strongest motive presented, but may abstain, why should punishment be "disappointed of its object and deprived of its justification"? The fear of punishment may not succeed in restraining the criminal; but it tends to do so, and in many cases does succeed. Is not this sufficient to justify its infliction? Must not even Determinists admit that it is not in every case an effectual restraint? It might, indeed, be different, if, as Mr. Mill seems to suppose, punishment would have no power of acting on the will if it left this morally free; but here again the assumption is that there is no possible medium between determination and complete inactivity.

The real point at issue, it should be remembered, is, not whether the will can act without any motive,—for no one says it can; but whether a motive is proved to be utterly devoid of power, if the will at any time freely abstains from following it. Is not all human conduct a demonstration of the contrary?

Determinists are wont to insist that the will follows of necessity whatever motive is strongest for the instant: where is the proof? Why, even though it were admitted that the fact that the will follows one rather than another is the only test of the relative strength of motives, so that the strongest motive could only be that which one follows for the time being, the will might yet be free to abstain from following any of the motives presented,—to do nothing. Since this is not an act, it would not need any motive, and there would be no question of following the weaker as against the stronger motive.

One is puzzled at first on finding an able man like Mr. Mill writing so earnestly about liberty, and yet not

[1] Mr. Mill objects to the ugly word "necessity." "Invariable sequence" pleases him better. "A volition," he says (p. 578), "is a moral effect which follows the corresponding moral causes as certainly and invariably as physical effects follow their physical causes. Whether it *must* do so I acknowledge myself to be entirely ignorant, be the phenomenon moral or physical, and I condemn, accordingly, the word Necessity as applied in either case. All I know is that it always does." If you believe that the sun rises so regularly because it *must* rise, being necessitated thereto by some compelling force that turns the earth on its axis, you may believe also that human actions are all equally necessary. No Necessitarian need wish for more than that.

believing in it; and the puzzle becomes all the greater when one reflects that the principal advocates of determinism in philosophy were and are Liberals in politics.

I know, of course, that their liberalism derives its name from what Mill calls [1] "Civil or Social Liberty" as distinguished from freedom of the will; and that this Civil Liberty means nothing more to them than the "nature and limits of the power which can be legitimately exercised by society over the individual." [2] Is it not true, however, that any civil liberty worth having is based ultimately on free-will? and that there can be no question of legitimacy where the king or parliament that exercises authority is not free to respect one's rights?

If there is no free-will, it is nothing less than ridiculous to talk, as Mill and all Liberals do, of freedom of conscience, of the platform, or of the press. The tyrant who imprisons or beheads you cannot do otherwise, any more than you can abstain from doing that which will get you imprisoned or beheaded. You and he and all men are simply like so much flotsam on the great ocean of the universe; your actions are as much the resultants of the primordial forces as are the motions of the planets. Your motives come to you and influence you for good or evil,—if they do come; but you cannot control them or make them come. You will be educated,—if you will be; get votes,—if you will get them; make war, pay taxes, get higher wages, raise the condition of the poor or lower it, vote Liberal or Tory, according as the forces lay in the primeval nebula. I do not say that what striving you do will have no effect on the world. The ocean has an effect on the rocks against which it beats; the moon has an effect on the tides; the remote star whose light can be traced on the most sensitive of plates only after hours of exposition, has an effect on the earth and the universe which it illumines and heats. If the doctrine of determinism is true, your striving is as free as theirs.

I have already referred more than once to the temptation that besets philosophical and religious reformers, to retain old terms to which a certain amount of respectability and reverence attaches, while scouting the doctrines which the same terms conveyed, and still convey, to the ordinary mind,—the doctrines to which they owe the respectability which they possess. Mr. Mallock has not

[1] *On Liberty*, Chap. I.
[2] *Ibid.*

hesitated to call this conduct "cowardice,"[1] I cannot but think, however, that there may be something else in it, akin to shame. Materialism has stripped itself naked, and for very decency is compelled to resume some of the cast-off clothes. The pity is that so many should be deceived thereby: should believe that there may be religion where there is no God, responsibility where there is no superior, and liberty where there is no free-will.

10. **Conclusion.**—We see, therefore, that the notion of "right" is different from that of "obligation,"—from what the disciples of Kant are wont to call the "ought,"—as this, in turn, differs from responsibility. Right is order; and, in addition to order, responsibility supposes a superior who may call the agent to account. It appears, further, that responsible agents must be free to abstain from acting, else why bring them to account for their actions? Wrong is often done by persons who, owing to ignorance or inadvertence or want of free-will, are not in any way accountable for what they do. At least on Catholic principles no one is held responsible for wrong done, unless, when doing it, he knew it was wrong and was free to abstain. The answer which any well-educated Catholic would give to Mr. Mill's question: "How he would reconcile his sense of justice to the punishment of crimes committed in obedience to a perverted conscience,"—is, That such punishment cannot be reconciled with justice, provided the crime has been committed in perfect good faith. Not Judas nor Lucifer will be punished, according to the Catholic view, except in so far as they may have been responsible for the evil they did; that is, unless in so far as they knew it was wrong and could have abstained from doing it.

[1] See his Essay entitled *Cowardly Agnosticism* in his book on *Contemporary Superstition.*

NOTE TO CHAPTER VIII.

WHY MEN ARE BOUND TO OBSERVE THE LAWS OF GOD.

With regard to the special duty of obedience to God,—the "ought" of so many of the moderns,—a friend who has read the MS. of this book writes as follows :—

"You say obligation means that I am bound to obey the divine will . . . Is there such a thing as obligation at all pressing me to obey the dictate of the divine will? Suppose that God commands me to do an act, how is it proved that I am bound to obey him? You will say he is All-holy and has authority over me. But what is the authority except moral power? And what is moral power but a relation having for one term right to obedience, and for the other obligation of obedience? But prove that this obligation is a reality. I am physically free; prove that morally I am not free. I think that any pupil would be quite at liberty to demand such proof, unless the proposition 'I am bound to obey God' be analytic."

So far my friend, setting forth, as I understand, not so much his own views or difficulties, as those which have been put forward by Kant and his disciples.

The reality of the duty on the part of an intelligent creature of complying with the known will of the Creator,—on the supposition, of course, that such a Creator exists and has made known his will,—is seen, as all other relations of duty are, by setting the two terms face to face and examining the nature of the relation between them. How do you prove that I am bound to abstain from murder?—bound, that is, towards the man whom I might wish to murder. By taking the two terms, man and man, setting them one against the other, and finding one to be by his very nature independent of the other; which means that they are bound each to respect the other's independence,—bound to the other even though they may not be bound to God. In the same way only can you show that one man is bound to respect another's property, that gratitude is due to benefactors, that veracity is due from man to man, that respect is due to worth, that children are bound to obey parents, and citizens to obey the laws. If any one can prove the existence of any of these duties except as I have indicated, that is, by setting the terms of the various relations, owner and non-owner, benefactor and benefited, speaker and person spoken to, man of worth and any other man, child and head of family, citizen and head of

state,—setting them one against the other, examining what each is and what its nature demands, and so finding the exact natural relation between them;—if any one can point out any other way in which a moralist may prove the existence of these and other such relations, I shall be glad to examine his method. I can only say that neither in moral theology, nor in ethics, nor in law, nor in political economy, has any sane man who has come to deal with the details of such questions,—not even among the disciples of Kant,—ever had recourse, so far as I know, to any other method of proof than that which I have indicated. Discuss the question of anarchism, for instance, with any intelligent man, Anarchist or advocate of civil government, and you will find that the one defends anarchism on the ground that the nature of man demands such independence of his fellows; whilst the other advocates the prevailing social system for the very opposite reason,—that men cannot go on, constituted as they are, without law and submission to law. Discuss the question of property with a Socialist, and you will find that all his arguments are based on his conception of man's nature and his relation to his fellows; and that according to his notions thereon his socialistic views will be more or less extreme. If I say that men are bound to obey the laws and respect the property acquired by their fellow-citizens, the only proof I can offer is, that man, as I know him, is incapable of subsisting and prospering otherwise; which is the same as to say that rights of property and obedience are the relations which the nature of man demands towards his fellow-men.

Accordingly, the answer to my friendly critic's question is: the only proof that can be given of the necessity of obedience to a divine command, is to set the two terms of the relation of obedience,—commanding Creator and intelligent commanded creature,—face to face, and to examine the relation between them,—whether one is the head and ruler of the other. If the Creator is not head and ruler, then he has no claim to obedience; just as the ruler of one family or state has no claim to the obedience of the members of another. But if the Creator is head and ruler, does not this mean that he has a right to obedience? And if he is not head and ruler, how can any one in any circumstances have such a relation to another man or body of men?

I understand an out-and-out Socialist or Anarchist—if there be such—who might be conceived to deny every relation of duty whatsoever and to whom you will,—duty of respect for life, property, law, and so on: that would be consistent, though manifestly false. But how can you maintain that one man has a right against another, so that the other is bound in duty towards the first to respect his life, property,

or command; but that the Creator has no such rights as against the creature whom his own hands have fashioned and whom he supports from instant to instant (see Chapter V., sec. 5).

Having read the foregoing reply my friend put his argument in a different form :—

"I will admit that if there is such a thing as duty at all, my first duty will be to obey God's will. But it is for you to establish the existence of duty in general, and if you cannot establish it how do you know that you are not talking about a mere chimera when you speak of our duty of obeying God? If you can only say it is *plain* that I must obey him, then, indeed, you are dealing very lightly with the subject, in postulating as a truth of common sense, over and above the existence of a number of beings, including God and creatures, with their various capacities and strengths and faculties, a moral order of right and duty between them, though the senses do not reveal it, nor, as you admit yourself, will reason prove it. I submit again that as an ethician it is your business to establish the existence of this order and of duty."

This, if I understand it, is taking up the extreme position just referred to,—of one who may be supposed to deny that there is any such relation at all as that of duty; so that the law of the land would have no claim on our obedience, and we might take one another's goods, or even lives, without violating any right,—right in one man implying duty on the part of another. My friend admits that "if there is such a thing as duty at all, our first duty is to obey God." I doubt whether any one ever lived who did not admit the existence of some kind of duty, at least of others towards himself; such for instance, as not to deprive him of his liberty or to take his life. Since this is so, is it not fair of me, as an exponent of ethical science, to argue that it must be our duty to obey God, on the hypothesis that he exists and has imposed his will on ours, even though as a psychologist I may not be able to explain how we got the notion which we all possess of the existence of duty in general; just as exponents of what are called the natural sciences—chemists, physicists, astronomers, and such—do not trouble themselves with psychological puzzles as to how we got the general notions of the existence of matter, motion, and form or figure, but proceed at once, on the assumption that these things are acknowledged realities, to explain how new forms and figures may result as terms of motion in the matter or stuff in which forms and motions are seen to subsist?

Coming, if we must, to the psychological aspect of the question; when my friend assures me that "it is my business as an ethician to establish the existence of this [the moral]

order and of duty,"—meaning by "establishing," apparently, deducing it as a conclusion by some argumentative process,—he appears to suppose that a scientific man can admit nothing but what has been either "revealed by the senses" or "proved by reason." I submit that there is a medium,—intued by the intellect. In every science we begin, and must begin, by intuition; since to prove all our premises would require an infinite series of arguments. If, therefore, we suppose with the Schoolmen that the first concept in the moral order is that of "right" or "ordinate," and that one of the first truths perceived—in the same moral order—is that what corresponds objectively to this notion is found in some action which has come under our notice; it is plainly as unreasonable to ask the exponent of ethical science to prove this minor proposition of his first practical syllogism, as it would be to ask an exponent of mathematical physics, for instance, to demonstrate the first minor premise on which his whole scientific system is based, or to ask a biologist to prove that there is such a thing as life. He, I repeat, who will not accept as true any proposition implying the universal which he has not proved syllogistically, will not and cannot accept any premise whatsoever of a syllogism, since not even in an infinite series of syllogisms can we conceive all the premises to be proved.

Philosophers of the German School, I know, do not recognise this power of intuition, that is of perceiving antecedently to all proof that the universal is found objectively in some individual; but believe, rather, that these earliest perceptions of ours are not so much "perceptions" of objectively existing things and relations, as subjective forms of some kind with which we are impelled by our nature to invest the phenomena that strike our senses. That, of course, raises the question of idealism *versus* modified realism, which it is for psychologists to discuss fully. To me it seems quite plain that any knowledge of ours which is worth having, in any branch of science whatsoever, comes to us from without and corresponds to the objects from which it comes; and that this applies not merely to details such as this or that species, but to the most general concepts such as "thing," "good," "beautiful," and to the immediate judgments to which they give rise, such as "this is a thing" "this thing is good or beautiful."[1] If all

[1] It may be doubted, not unreasonably, I think, whether such perceptions are judgments in the strict sense,—acts, that is, whereby two ideas are united or identified.—and not, rather, mere perceptions of some one universal trait (ratio) in an individual revealed by sense or in the object of a more universal concept previously acquired. It is in this way, surely, before we can form any judgment in which a certain universal idea is involved, that the idea in question is first perceived; unless, indeed, we hold with so many of the Germans that the universal proceeds from us to the object, rather than is perceived in the object by us.

our sciences were based on subjective forms, then, indeed, we could never be sure that even those of whose results we are most proud were not mere chimeras.

My friendly critic has dubbed these intuitions "truths of common sense,"—a term to which I should not have much objection if it were not already appropriated by certain philosophers whose conclusions may not all commend themselves to my judgment. He seems, moreover, to identify the terms "right"—in the sense of "morally good"—and "duty"; whereas I have insisted that there are many good actions which are no in way due. "Duty" is not the most general concept of the moral order, but rather "good" and "bad," "right" and "wrong," "ordinate" and "inordinate." When these are contracted to narrower limits by differentiating characteristics, they become the "temperate" or "intemperate," the "brave" or the "cowardly," the "due" or the "want of duty"; and when still further differentiated they become something still more specific, such as the "chaste," the "grateful," the "obedient," and so on. But even the most general notions, of "right" and "wrong," are less general than the transcendental, "thing," which must be perceived before the object can be seen to be "right."

If, therefore, it were necessary to "establish the existence of duty in general,"—meaning thereby, I take it, the existence of an order of right and wrong,—before we can be certain of the objective existence of any special branch of duty; it would be no less necessary, for the same reason, to "establish" the existence of the wider universal "thing," of which "duty" is a particular determination, before proceeding to prove the existence of duty in general. But surely our first knowledge of the existence of "thing" must be attained by intuition rather than by proof; and the same holds for our first knowledge of the actual existence of differentiating characteristics. How, for instance, could you prove the existence of oxygen, or oak, or lion, or man, except by seeing something in existence which is as characteristically differentiated as they?—seeing it, not by sense, for the object perceived is supposed to be the universal, but by the spiritual faculty, to which, as I conceive, intuition of the universal belongs.

Chapter IX.—The Natural and the Eternal Law.

1. **General Notion of Law.**—The word "law" is to be understood differently according to the context in which it is found. Thus, when we speak of the laws of motion, we mean something very different from what is meant when we speak of the Common or the Statute Law of England or Ireland. The laws of motion are merely general propositions which set forth the order in which the movements of bodies take place. The laws of the realm are expressions of a will which has authority over certain persons, and to which, accordingly, these are expected to conform their acts; so that, in so far as they do not conform, there is disorder in the body corporate. Enactments of this kind are laws in the strict sense.

The term "body corporate" suggests the source from which we derive the concept of law as an enactment of a governing will. For, just as the body of an individual man is composed of a number of parts, united in such manner as that the movements of each can be directed by the will of the individual; so we must conceive a society—which alone is capable of law—as a number of individuals or parts drawn together by a moral bond, and governed by one will, whether that of an individual ruler, or of a small knot of individuals, or of the majority of the members. Society implies multiplicity and unity,—multiplicity of members, who must be united to form a whole; somewhat as the body of an individual is composed of a number of parts bound together into an organism. It is, moreover, in accordance with all human experience that no union of separated individuals can have any stability unless there is an authority of some kind to whose mandates the various individuals must conform,—that is to say, unless there is a governing authority. The will of the ruler, when communicated to the individuals, summoning them to act in such or such a manner, is, speaking generally, what is meant by the word "law" in its strict sense; wherein it designates, not so much a general proposition, as an expression or communication of the demand of a ruling will.

2. **The Natural Law.**—Now, as I understand the term "natural law," it denotes, not so much an enactment of a ruling will,—a law in the strict sense,—as an order or relation objectively existing, and capable of being expressed in a general formula akin to the laws of motion and other such principles of which we read in physics. It is, for instance, in accordance with the natural law that murder is inordinate; the meaning being that the moral order existing objectively between any two men whatsoever, is such as is expressed in the formula: murder is wrong. Just as the laws of motion are not communications or enactments of any ruling will, but merely general propositions representing the order in which the phenomena of motion take place; so the natural law regarding murder, or theft, or lying, is not any enactment, but merely a general truth regarding the objective relations that should subsist between the essences that are implied by murder, theft, and lying, and which may be in order and right or out of order and wrong.

I am aware that the natural law is often represented by Catholic writers as some kind of participation of the eternal law, possessed by rational creatures; as some kind of impression on man of the divine light, whereby he may be able to discern good from evil; and as a natural innate conception, whereby a man may direct his acts in accordance with right reason.[1] All this may be true, if it is understood metaphorically or analogically. Strictly speaking, the natural law is neither an impression of the divine light on the soul of man, nor a conception of any kind, nor anything like a participation of the act of intellect or will in which the eternal law formally consists. It is an order, not merely between individual essences, but between all essences of definite types or species,—an order, therefore, which may be expressed by a universal proposition, like those in which the relations of moving

[1] "Lex aeterna applicatur omnibus et singulis rebus creatis et est passive in ipsis. Et quia homo non subtrahitur sed specialiori perfectionique modo divinae providentiae subjicitur, sequitur quod lex aeterna sit in homine et quidem perfectiori modo quam in caeteris rebus ratione destitutis. . . . Haec participatio legis aeternae in rationali creatura, haec impressio divinae rationis in mente nostra, haec impressio divini luminis in nobis, quo discernimus quid sit bonum et quid sit malum, haec denique 'conceptio homini naturaliter indita, qua dirigitur ad convenienter agendum in actionibus propriis, sive competant ei ex natura generis (*animalis*), ut generare, comedere, et hujusmodi, sive ex natura speciei (*rationalis*), ut ratiocinari et similia' (IV. D. xxxiii. q. i. a. 1) dicitur lex naturalis."—Zigliara, *Summa Phil.*, Ethica (24) I.

bodies are expressed, or like the rules and canons of art. These latter expressions also,—the laws of motion and the rules of art,—are laws of nature, in the physical and æsthetic orders. What is called natural law in the moral order is to be understood in the same way, allowance being made for the difference of order to which it belongs.

The foregoing explanation, in substance, corresponds to the idea of natural law which is set forth by the Jesuit theologian, Gabriel Vasquez, and to which his brother Jesuit, Suarez, objects on the ground that it does not make out the natural law to be a law in the strict sense, such as, he asserts, it has always been regarded by the great Scholastic writers.[1] When, however, in the next chapter he undertakes to prove, against quite a number of theologians of the highest character, that the natural law is a law in the strict sense, he does not seem to be very successful. He admits that, strictly speaking, a law should emanate from the will of a superior; and if we distinguish, as he does, between the law of nature and the eternal law of God,—the latter alone being the binding will of God, the former residing somehow in, and emanating from, those who are bound by its enactments,—it is difficult to find the superior from whose will the natural law may emanate. No one is superior to himself, or can make for himself a law in the strict sense of the word. Hence I find that the French canonist, Bouix,[2] states that the natural law, as distinguished from the eternal law of God, is not a law in the strict sense ;—which agrees exactly with the explanation set forth in the last paragraph.

I am aware also that the natural law is often represented as a dictate of reason with regard to the moral quality of certain acts ; according to which it would seem

[1] "Natura ipsa rationis, praecise spectata, ut talis essentia est, nec praecipit, nec ostendit honestatem aut malitiam, nec dirigit aut illuminat ; ergo non potest dici lex, nisi velimus valde aequivoce et metaphorice nomine legis uti, quod evertit totam disputationem ; nam supponimus, cum communi sententia non solum doctorum sed etiam canonum et legum, jus naturale esse verum jus, et legem naturalem esse veram legem." *De Legibus*, Lib. II., Cap. V. n. 5.

[2] "Jus naturale dupliciter intelligi potest: vel quatenus abstrahit ab omni actu superioris aliquid statuentis, et designat tantum obligationes quae ex ipsa rerum natura oriuntur et hominem ligant ; vel quatenus designat etiam actum legislativum superioris, easdem obligationes hominibus sua auctoritate imponentis. . . . Lex naturalis, quatenus consideratur sic, praescindendo ab actu divinae voluntatis, non potest dici lex in stricto sensu : quia lex stricte sumpta includit semper superioris alicujus praecipientis aut prohibentis actum."—*De Princip. Juris Can.*, p. 22.

to be not so much the objective general truth which is known by the reason, as the subjective act by which the intellect perceives the objective truth. This, also, seems to me a very loose conception. For just as the laws of motion existed objectively before ever there was any created reason to become aware of their existence, and would continue to exist even though all men and angels were annihilated next instant; so, even though there were only one man in the world and he a lunatic or an infant, and therefore proximately incapable of any act of reason, it would be for him a real, though material, violation of the natural law, to get drunk or to commit suicide. Nay, even though there were no man in existence actually, as long as men are possible sin is possible, and these possible sins must be conceived as being against the natural law. This proves that the natural law of morals, just like the natural laws of motion or of the refraction of light, are objective truths and not merely subjective perceptions. They are, therefore, general truths based on nature,—that is, on the relations between beings which are capable of being governed by law, either towards one another or towards other beings. These general truths are capable of being known by human reason, which intues these essences and discovers the order between them, deducing conclusions from these primary intuitions. It is, therefore, only in a less strict sense, as so many theologians and jurists have taught, that the natural law of morals can be called a law.

3. **The Eternal Law of God.**—Though the natural law is merely an order that subsists between essences, it is supported at all points by the divine will, which requires this order to be observed. This act of will subsists within God himself,—nay, is really identified with the divine substance,—but must be conceived by us as an act or enactment, which, subsisting in him, is expressed in the natures that he has produced, and may, therefore, be known by studying these natures. This act of will whereby God requires all who are capable of directing their actions in accordance with reason, so to do, is a law in the strict sense;—the "eternal law" it is usually called, since in a most true sense it existed from all eternity, like every other act of God. It is sufficiently promulgated even where its provisions are entirely unknown or wrapped in

doubt; for, as we shall see later on,[1] promulgation does not imply actual knowledge on the part of the subjects of the legislator, but only such conditions as are sufficient to make it possible for them to attain a knowledge of his will.

When it is said that this eternal law has been graven not on tables of stone but on the hearts of men, the meaning is that the human intellect is capable of knowing by intuition the first principles of the moral order, and of deducing from these the remotest conclusions regarding morality,—as far as ever the natural law extends. The intellect is capable of all this, though it will never actuate the capacity by attaining knowledge of every detail. It is capable, moreover, of proving satisfactorily that this order was established by the same person who created the universe, and who, as a consequence, must of necessity will that the order which he established shall be observed by all those beings whom he has left to direct their actions in conformity with reason. These capacities are born with every man; they are the law which is said to be graven on his heart,—not of necessity an actual knowledge, but a power of knowing, which becomes actual to a greater or less extent as experience grows and the power is exercised. Strictly speaking, this power is not a law; nor even the image of a law, as it were, in the human intellect. It is but a power of knowing the law; and this knowledge, when attained, is the warrant for the individual that the law, strictly so called, exists objectively and is to be observed.

4. **Positive Laws.**—Besides the natural and the eternal laws there are free enactments whether of divine or of human authority. They are free in the sense that nature does not demand them of necessity; they are, however, in accordance with the order established in nature, and, as such, are backed up by the eternal law.

Nature does not demand those enactments of necessity. For it is reasonable to suppose that there are many things which both God himself and human superiors might exact, if they wished, as contributing to the common weal; but which, also, they may abstain from exacting. What is good may not be necessary; and though a superior can make no valid enactment except for the welfare of society,

[1] Book III., Chap II., S. 4 Chap. IV., S. 3.

he may abstain from promoting a good which is not a necessity. When, however, in such circumstances, an enactment does emanate from his will, the natural order demands that it shall be obeyed. This is the very essence of the relation between superior and subject; so that, if the office of ruler is in accordance with nature,—as it is; for how otherwise could any society exist?—it follows that the natural law demands that every legitimate enactment shall be obeyed.

In this way the natural and eternal laws govern every possible human action of the moral order; and all these actions are right or wrong, and therefore in conformity with or in opposition to natural law, according as the effects which they produce or the objects towards which they tend,[1]—taking into account all the circumstances, the positive enactment of the superior among the rest,—are in or out of the order which, in the same circumstances, prevails of necessity between the essences in question.

[1] For the test of morality see Book II.

Chapter X.—Penal Laws.

We have seen that when the term "law" is used in its strict sense, it denotes an expression of the will of a superior, which in some way produces an effect on the community he governs, so as either to enforce relations already existing, or to alter them, thereby putting out of order what had previously been in order, and the reverse. There are two principal ways in which this change of order may be produced, as will appear from what I am about to say with regard to the nature of the obligation which arises from what are called "purely penal laws."

1. **Existence of Purely Penal Laws: Common Opinion.**—Jurists teach, and it is a matter of common knowledge, that some positive enactments are so worded as to determine the punishment which shall be incurred by any subject who may violate the provisions of the law. Such enactments are called "penal laws." It is acknowledged by all that there are many penal laws which may not be transgressed without sin,—material sin, if the violation is unconscious; and formal sin, if the transgressor is aware of the existence of the law. The penalty which is inflicted by the superior on those who deliberately transgress laws of this kind, is a punishment in the strict sense of the word; which supposes that the person who is punished has been guilty of some transgression of the moral order. The laws, for example, that forbid murder, treason, perjury, forgery, and such crimes, determine also the quality of the punishment that shall be inflicted on those who disobey; and no one doubts that disobedience to these laws involves true moral guilt, or that the prescribed penalty is a punishment in the strict meaning of the word.

There are other enactments, however, in which penalties of some kind are prescribed for those who transgress, and which, nevertheless, in the opinion of many writers, may be deliberately violated without any internal guilt. Not as if the law were in any way unjust, or the legislator unable, on that account, even though he wished, to impose an obligation in conscience. The view is, rather, that he deliberately abstains from imposing any such obligation,

and yet rightly determines the nature of the punishment that shall be meted out to the transgressors. If, indeed, the breach of law is discovered and the punishment decreed, the transgressor shall be bound in conscience to submit to this decree ; but, except in so far as he may refuse to do so, he shall not be in the least guilty or incur the slightest blame.

Among those who hold the legitimacy of enactments of this kind, there is diversity of opinion as to which laws bind under sin and which are purely penal. The eternal law of God always binds in conscience, it is said ; so does the canon law, except, at the most, in a few instances. Not so the enactments of the civil authority, which is represented as being content, in many cases, to inflict punishment, without burthening the conscience. Nay, the more severe the punishment prescribed, the greater the probability, it is said, that the law is purely penal ; since it is not to be presumed that the legislator would wish not only to inflict on transgressors a severe temporal penalty, but also to expose them to be punished more severely in the future life.[1] As examples of purely penal laws St. Alphonsus mentions[2] those which regard taxation and the game laws. The rules by which discipline is regulated in religious houses are usually regarded as belonging to the same class ; and I should be very much surprised if many of the bye-laws of public companies,—such as that by which smoking in certain compartments of railway carriages is forbidden,—would not be set down by our moral theologians as purely penal enactments.

2. **Two Objections to that Opinion.**—I consider it impossible to reconcile the foregoing opinion either with the nature of morality or with the theory of punishment. Take, for instance, a breach of any part of the rule by which domestic discipline is regulated in an ecclesiastical seminary or religious community, and ask yourself whether the act in question is in order or out of order. If it is in order, it is good ; but is it good ? Can it be referred to God in prayer, done for his honour and glory, and made a source of merit ? Could a poacher or smuggler,

[1] "In lege civili poena valde gravis, quae ad legis transgressionem proportionem non habet. indicat non tam delicti gravitatem, sed potius legem esse mere poenalem."—S. Alphons. *Theol. Moral.* Lib. 4, (al. 3) n. 616.

[2] *Ibid.* Lib. 1. n. 145.

when he is setting out on an illegal enterprise, implore the divine blessing on his work, asking God to accept it for his honour and glory? If the act is in order, why can he not offer it to God? And if it is not in order, it must be out of order and sinful.

Coming to the theory of punishment, the reader who has any acquaintance with the details of moral theology will remember that it is laid down in connection with censures that these penalties are not incurred except by criminals who have been formally guilty; because, as it is said, censures are punishments, and punishment cannot be inflicted except for formal guilt.[1]

Moreover, in the celebrated passage[2] in which he lays down so clearly the doctrine of original sin, St. Paul argues —implicitly, if not even explicitly—in this way :—Every one who dies suffers death as a punishment; but punishment supposes guilt; therefore every one who dies—even infants in the womb—is thereby proved to be guilty. This, however, supposes the principle of which we have heard already in connection with censures, that no one can be justly punished who has not been in his conscience guilty of a fault—a principle which, as far as I know, is advocated by every theologian who has written on the subject.[3]

3. **Penal Clauses in Contracts.**—In support of the common opinion Billuart argues from the analogy of the penal clauses of contracts, which, as all admit, do not bind in conscience, and yet, if not observed, expose the contracting and defaulting party to a fine. This fine, indeed, is not a punishment in the strict sense, but rather a price paid for a certain amount of liberty of action. So, it is argued, penalties inflicted on those who have been convicted of breaches of purely penal laws, are not punishments in the strict sense, but portions of a contract which

[1] Suarez, who maintains that some laws are purely penal, does not hesitate to write ;—"Certum est censuram solum posse juste ferri propter culpam; ostendinus enim censuram esse quamdam poenam; poena autem dicit habitudinem ad culpam, unde non potest juste nisi propter culpam imponi."—*De Censuris*, D. 4, S. 1, n. 1.

[2] Rom. v. 12-21.

[3] Card. Mazzella (*De Deo Creante*, n. 949) quotes the following from St. Augustine :—"Pelagiani quomodo dicunt 'solam mortem ad nos transisse per Adam'? Si enim propterea morimur, quia ille mortuus est, ille autem mortuus est quia peccavit, poenam dicunt transire sine culpa, et innocentes parvulos injusto supplicio puniri (vel tamquam injustos puniri), trahendo mortem sine meritis mortis."

the convicted person, as a contracting party, is bound to observe.[1]

Here the issue is knit more definitely. It is admitted, on one side, that a punishment in the strict sense cannot be justly inflicted unless on one who has been internally guilty of a fault; and on the other side I have no difficulty in admitting that the penal clauses of a contract can be enforced against one who has not been guilty in the least. The question, then, becomes one of fact: is the penalty which is inflicted for the violation of these penal laws, a punishment in the strict sense, or is it rather somewhat like the enforcement of a penal clause in a contract? Ask yourself how is it understood by the judge who sentences a poacher or smuggler, by the man who is sentenced, and by the public. Let any one who knows life as it is found in ecclesiastical seminaries, ask himself honestly whether a student who is brought up before the superiors for violation of the rules, is in the same position as a contractor who is called on to pay a fine for not having finished some piece of work within the time specified. I have made up my mind that in both these cases—which are typical instances of what are understood to be purely penal laws—the common feeling is that there is not the least similarity between the poacher or the student and the contractor. One is regarded as a criminal, but not the other; one is expected to hang his head, feel shame, and express sorrow for the offence he has committed; whereas the other has simply to pay out so much money and walk away with head erect. If this be so—and I do not see how it is possible to doubt of it—it means that, even on the principles of Suarez, as the poacher or student is punished in the strict sense, he is treated as one who has been guilty of internal fault; and the law which he has violated is thereby proved to be regarded as binding in

[1] "Poena hic non sumitur specialiter pro vindicta peccati, sed communiter pro poenalitate; quod potest contingere etiamsi actus aut omissio ex qua contrahitur haec obligatio sit virtuosa. Sic e.g. in contractu in quo maneat libertas a culpa aliquid agendi vel non agendi, cum pacto tamen ut qui omittat solvat tantum; si omissio fiat ex motivo honesto, erit virtuosa, et tamen omittens tenebitur solvere summam conventam. Similiter inter religionem et religiosum initur contractus servandi regulam, sic tamen ut qui non servat sit liber a culpa, sed teneatur subire talem poenam."—Billuart, *Summa Summae, De Statu Reli*, D. I. a. 7.—Suarez says practically the same thing:—"Fatemur poenam in maxima quadam proprietate sumptam includere rationem vindictae, et dicere ordinem ad propriam culpam. Non est tamen necesse ita in praesenti sumi, &c."—*De Legibus* Lib. V. C. IV. n. 5.

conscience and not as a purely penal enactment. This applies to every law whatsoever which is penal in the sense that it determines a punishment in the strict sense for those who transgress its provisions.

4. **The Rule in Religious Houses.**—There is another line of argument which appeals only to Catholics, but which for them is so interesting, and bears so closely on the nature of morality as explained in this treatise, that I would like to direct the reader's attention to it in a special manner. It is drawn from the received teaching, backed by the doctrinal authority of the Holy See, that the rules of certain religious orders do not bind under sin.[1] Yet there can be no doubt that those who violate such rules may be punished by their religious superiors ; and I have already expressed my conviction that the penalties so inflicted are punishments in the strict sense. It would appear, therefore, that penal laws may bind in the same way, not so that a person in violating them would be guilty of sin, but only that he would thereby expose himself to be justly punished.

As helping to clear up this difficulty I would have you note, in the first place, what is taught by practically all those who have written on this aspect of the question before us[2]—that it is hardly possible for a religious to violate any rule without falling thereby into sin, even though the rule in question should not bind under sin directly.

Perhaps, then, the transgressor is liable to punishment in the strict sense, not for any violation of the rule, as such, but for the real, internal sin which he commits, however indirectly.

You may urge in reply, that one can be justly punished, in the strict sense of punishment, whenever one is found

[1] "Ut igitur unitati et paci totius ordinis provideamus, volumus et declaramus ut regula nostra et constitutiones nostrae non obligent nos ad culpam, nisi propter praeceptum vel contemptum."—Extract from the Constitutions of the Dominicans, quoted by Billuart, l. c.: these Constitutions were, of course, approved by the Holy See. A clause to the same effect is found in the constitutions of nearly all religious congregations. Suarez refers to the Constitutions of his own Society (6 part. cap. 5):—"Ubi dicitur universas constitutiones, declarationes, aut ordinationes, exceptis tantum Societatis votis, non inducere obligationem ad peccatum mortale vel veniale, nisi addantur expressa signa hujus obligationis."—*De Religione*, Tr. 8, L. I. C. 2, n. 14.

[2] *Cf.* St. Alph. (*Theol. Moral.*, L. 4, n. 42):—"Transgressionem regulae raro omni culpa vacare, putant Valent. Sanch., et Suarez."

to have violated a rule; whereas every such violation is not of absolute necessity accompanied by internal sin; from which it would follow that sin is not absolutely necessary as a condition for punishment in the strict sense. My answer is, that violation of rule is accompanied in every case by sin; except indeed, in some rare instances the regulation should be a contract entered into between the superior and the subject as between two independent parties, rather than a rule emanating from the will of the superior formally acting as a superior. This, as it seems to me, is the only way in which one can reconcile with the principles of morality the received doctrine that a breach of rule may involve sin indirectly, although it is not a direct violation of the authority of the superior.

5. **Rule Binds the Conscience Indirectly: Commonly Received Explanation.**—There are three ways in which, according to the received explanation, borrowed from St. Thomas, sin may be committed indirectly when a rule is broken: by reason of negligence, contempt, or concupiscence.

"There is negligence whenever, without any reasonable cause, one is impelled to break a rule; for one is adjudged guilty of neglecting a law or statute whenever, without reasonable cause, one does not observe it. . . . Lust or cupidity is an inordinate appetite by which any thing is desired more than right reason dictates. It is a venial sin *ex genere suo*. Wherefore, a religious would commit a venial sin, if, under the influence of sensuality or an inordinate desire of food, he should break the fast prescribed by the rule; or if he should break silence out of inordinate curiosity or propensity to chatter. . . There is contempt of rule whenever the will refuses to submit to the order prescribed, and for that reason proceeds to violate it. For if it was any special reason, such as concupiscence or anger, that induced one to violate the rule, the sin would not be contempt, but would belong to some other species."[1]

[1] "Transgressio regulae . . non est culpa ex parte operis; posse autem esse culpam ex parte operantis, et hoc triplici modo, inquit S. Thomas: ex negligentia, libidine, et contemptu: Explicatur. *Ex negligentia*, cum quis absque rationabile causa . . . movetur ad non implendum statutum; censetur autem negligi statutum seu lex quando sine rationabile causa non servatur. . . *Ex libidine*. Libido, seu cupiditas, est inordinata voluntas qua aliquid concupiscitur plus quam dictat recta

I find it difficult to understand this, so as to reconcile it with the principles of moral science. It is, for instance, a rule of this College that no student, while in residence, shall drink wine. Now, I can easily understand that it would be sinful for a student to drink a glass of wine more than strict moderation allows; or to drink wine in circumstances in which a professor, for example, could not do the same thing without violating the natural law. But if all other circumstances except the rule are exactly the same, why should it be a sin for a student, but not for a professor, to take a glass of wine after dinner?

Suppose the student says: I have as much reason for taking this glass of wine as that professor has, or as I myself should have if I were not in residence; I shall take care that my motive also is good, for I shall take the wine for the sake of my health, or for legitimate enjoyment, and shall refer the pleasure to the greater glory of God. Moreover, so far am I from despising any law, that if you assure me that the rule binds me under sin, I shall abstain. Let the student say this, honestly, and where is the sin? Why should it be almost invariably wrong for him to take wine, but no sin at all for the professor, whom it may not benefit so much? If it be true that when rule is broken sin is committed only by reason of neglect, concupiscence, or contempt, he should be a foolish religious or student who, though living under rule, would not be able to do whatever he might reasonably do if he were not under rule, and show meanwhile that he is neither negligent nor over-indulgent to himself nor contemptuous, in the sense explained by Billuart.

Hence I believe that either he would commit no sin as long as he took care to do only what he might reasonably do if there were no rule; or he would be out of order, and therefore guilty of sin, whenever he consciously did what, according to the prescription of the rule, should be avoided. The latter seems to me the reasonable view to take,—the view that comes nearest to what has been taught by the saints and the most eminent directors of souls.

ratio; est ex genere suo peccatum veniale: unde religiosus qui, v.g. ex sensualitate seu nimia cupiditate cibi, violaret jejunium regulare, aut ex nimia curiositate seu loquacitate frangeret silentium, peccaret venialiter. *Ex contemptu.* Tunc aliquis transgreditur regulam ex contemptu, quando voluntas ejus renuit subjici ordinationi legis, et ex hoc procedit ad faciendum contra illam; si enim propter aliquam causam particularem, puta concupiscentiam vel iram, inducitur ad faciendum contra statutum legis, non peccat ex contemptu, sed ex aliqna alia causa."—Billuart, l. c.

6. **Basis of a More Satisfactory Explanation.**—But how is this to be reconciled with that clause in the constitutions of so many religious orders, to the effect that the rule does not bind under sin? I think it may help us to form clear conceptions if we examine closely what kind of sin is involved in a breach of law which admittedly binds the conscience,—such as the law of abstinence from meat on Friday, in the Catholic Church.

When a Catholic eats meat on a Friday, unless he is ill or has some other reasonable excuse, he commits a sin of disobedience to ecclesiastical authority. This is admitted by all. I think it must be admitted also that he commits a sin of intemperance in eating, and this even though he may not take as much meat as he might take on any other day of the week without committing any sin.

For, what exactly is intemperance in the use of food? It has been well said that, in the physical order, dirt is matter out of place; and I have already asked the reader to consider whether, in the æsthetic order, beauty and ugliness do not depend largely on the position which a line, or a word, or a note of music, takes for the time being. Similarly, if there is anything in the concept of right and wrong, as objects and actions in order and out of order, given a true law by which a person is really bound to abstain at a particular time from eating a particular kind of food, that food and that act of eating,—if he does eat in these circumstances,—are out of order, not merely as being against authority, but even as food and eating; that is to say, they are out of the order of temperance. The very essence of temperance is ordinate use of food; but the Catholic who eats meat on Friday uses food inordinately; therefore, he sins against the virtue of temperance.

The same applies all round, to such acts as recreation or study, if they should be performed at a time when the agent is bound by law to be doing something else,—say, hearing mass. I can conceive a case in which, if it were Monday, a person might, without any sin of sloth, sleep till eight or nine in the morning; whereas he would be considered decidedly slothful if he did so on Sunday or any feast day of obligation, and if the only mass at which he could assist were said at seven or eight o'clock. So, too, I should consider it inordinate curiosity and not virtuous love of knowledge, if a farmer, shopkeeper, or

artisan, were to engage in the study of physics when he should be at his regular work; or if a student should remain at his books when he ought to be taking necessary recreation. That is not the time for study; it is study out of place,—in the special line of curiosity. If, again, one takes recreation when he should be at mass or at work of any kind, he is guilty not merely of neglect of business or disobedience,—sins which he should commit if he were to do absolutely nothing at the time,—but of inordinate amusement, by whatever name it should be called.

Any one who is familiar with the details of moral theology will not consider the foregoing strange, if he bears in mind what is commonly held with regard to the power of the ecclesiastical legislators to bind their subjects in virtues other than obedience. Lacroix expressly teaches[1] that "to eat meat on Friday is a sin against the virtue of abstinence, not of itself, but only by reason of the precept by which it is forbidden." He goes on to say that what is known as ecclesiastical simony—which might be committed, for example, by exchanging benefices,—is a violation, not merely of ecclesiastical obedience, but also of the virtue of religion; and I have not the least doubt that this view would be admitted generally.

This appears strange at first sight, and Lacroix does not seem to be either very clear or very happy when he tries to explain how it comes that what is temperance on Thursday becomes intemperance on Friday; all circumstances remaining the same, with one exception,—that on Friday the ecclesiastical law intervenes. He seems to ascribe the difference, in some way, to the will of the legislator, apart from any change of order produced objectively as a result of this intervention. And yet he acknowledges that what is prescribed by law should conduce in some way to the promotion of the virtue which is violated together with obedience.[2] Why it should, or

[1] "Comedere carnes die Veneris non est de se contra virtutem abstinentiae, et tamen quia praeceptum prohibens eam comestionem est positum ex motivo abstinentiae, hinc comedere carnes die Veneris est contra virtutem abstinentiae. Item propria auctoritate permutare beneficia, de se non est contra virtutem religionis; quia tamen Ecclesia hoc prohibet ex motivo religionis, talis permutatio est simoniaca, et contra virtutem religionis."—*Theol. Moral.*, L. I. n. 626. *Cf.* S. Alph. L. 4, n. 41.

[2] "Ut lex vel praeceptum proxime obliget subditum ex illa virtute ex cujus motivo lex vel praeceptum ponitnr, tria requiruntur:—Id quod praecipitur debet aliquo modo conducere ad finem istius virtutis saltem perfectius consequendum; si enim nullo modo conduceret, non esset referibile tanquam medium ad illius honestatem consequendam."—*Ibid.*, n. 627.

how it does, conduce, he does not explain very well ; what comes out plainly is the general doctrine,—which is as definite as need be desired.

In the æsthetic order there are very striking cases in which, owing to the intervention of a directing or ruling will, the relation of things is so changed that what is in itself truly beautiful becomes manifestly out of order and harmony. Every one knows that a member of a choir or band may do well æsthetically, when he sings a solo or plays his favourite air on the violin in the solitude of his room. But if, while he is acting as a member of the choir or band, he should do the very same thing, at a time when his fellow-members are singing or playing something else, what would the conductor think of his conduct ? In itself it may be as beautiful as you can conceive ; but it is out of place in these circumstances, and therefore out of order,—a sin, not merely against obedience, if the director should care to exercise his authority, but also against musical taste and harmony,—a true virtue, surely, if everything that a man can do intelligently must be either an act of virtue or an act of vice.

It is easy to call up similar illustrations from other branches of æsthetics. I can fancy the wrath of an architect, whose duty it is to draw a plan but who has no authority to bind in obedience the artisans who are employed to carry out his design,—I can imagine how he would feel if, on coming to inspect the work, he found a pointed arch, no matter how handsome, where, in accordance with his plan, the arch should be of the Roman style. As he has no authority over the masons, he would not be justified in regarding them as guilty of disobedience towards himself ; but as he was empowered to lay down the lines of the order that should be followed in building, and as he did lay down a certain order, any departure from that, no matter how excellent it might be otherwise and independently of the order laid down, is simply matter out of place and artistically inordinate.

7. **Development of this Idea.**—If you accept this, we may proceed a step further. I suppose that, according to what I have said, it is not only disobedience but intemperance for a Catholic to eat meat on Friday ; the disobedience consisting in the particular disorder caused by his refusing to conform to the ruling will ; and the intemperance consisting in the inordinate use of food,—the eating out of

place. So, too, if a member of the College choir were to sing *The Last Rose of Summer* while the other members are singing the *Dies Iræ*, he would be guilty of disobedience by refusing to conform to the will of the Master of the Choir,—that is, in case that official can and does bind in obedience,—and he will be guilty of causing discord by producing sound out of place.

Suppose, now, that the ruling will is not exercised; may there not still be the intemperance and discord? May not the Master of the Choir have power to make out the order of the chant for the day, without any authority whatsoever to bind the singers to conform to his will? Suppose the order to be established in this way, without any act of what may be properly called authority, binding the subjects to conform to the ruling will of a superior, would it not be true that a violation of the order so established would be inordinate, but not with that peculiar kind of disorder which consists in not conforming to a ruling will,—inordinate but not an act of formal disobedience?

This is how I conceive the rules of religious houses to operate. They lay down the order in which the domestic duties of the day shall be performed by the community, somewhat as a director of a choir makes out the order in which the various pieces will be sung, and indicates the time and the manner in which each note shall be produced. This order being made out, every act that does not fit in with it is simply out of order,—in this or that line, according to the nature of the act. It is not, however, disobedience, unless the superior should not only make out the order of the day, but also impose this on the community by an act of ruling will. And when it is said in the constitutions of so many religious orders that the rule does not bind under sin, the meaning is that the order which it establishes is not backed up by any act of ruling will, so that violations of the order thus established shall not be sins of disobedience[1] nor breaches of the vow by which religious bind themselves to observe that virtue. The reason, apparently, why in religious houses the rules are made so as not to bind in obedience, is, because the reli-

[1] "Docet Oviedo si superior mihi imperet jejunium ex solo motivo temperantiae, et non obedientiae, si observem, etiam quia praeceptum est, me fore temperatum et obedientem; si autem non observem, me fore intemperatum sed non inobedientem, quia jejunium per tale praeceptum fit materia necessaria temperantiae, sed non fit materia necessaria, sed tantum apta, obedientiae."—Lacroix, l. c. n. 628.

gious are bound by vow to obey whenever their superiors exercise the ruling will in their regard, and it is not considered desirable to expose them to so many occasions of violating this serious obligation.

We have seen that it is the received teaching that there can hardly be a violation of rule which does not involve a sin of some kind. There is no way that I know of in which this doctrine can be reconciled with the principles of moral science, except by falling back on the distinction between order and obedience which I have just pointed out.

NOTE TO CHAPTER X.

How Legislators are bound by their own Laws.

The argument in the preceding chapter may be confirmed and the whole question further explained by considering the relation of legislators towards those actions which have been either commanded or forbidden by themselves. It is supposed that there is no other command or prohibition, either by the natural or what has been called the divine positive law. Is the Pope, for instance, bound to abstain from meat on Fridays, or to recite the divine office daily? If so, what is the nature of the obligation and what its root?

The teaching of Catholic moralists on this question is, I think, fairly and briefly explained by Lehmkuhl (*Theol. Moralis*, Vol. I., n. 144):—

"Prima sententia est Cajetani, qui tenet ipsum legislatorem immediate et *formaliter sua lege teneri*, quia ipse ut persona publica seipsum ut personam privatam et membrum communitatis ligari possit et liget.

"Secunda sententia est Castropalai et Salmanticensium, qui dicunt legislatorem *sua* lege non teneri, sed tantum *lege naturali-divina*, quae dictat dedecere caput a membris discrepare, ita ut ipsa legislatoris lex solum ostendat materiale objectum, ad quod ipse etiam teneatur; at *per se* sub veniali tantum.

"Tertia sententia Suaresii, Layman, Lessii, etc., qui putant sua quidem lege legislatorem formaliter non obligari, sed lege naturali-divina, ut secunda sententia dicit, attamen ipsum legis a se latae objectum non materialiter solum a lege divino-naturali illi praecipi, sed etiam formaliter seu *ex ejusdem virtutis motivo* ex quo ipsius legislatoris lex obligat. Quam

obligationem Suarez habet pro indispensabili et gravi (ita tamen ut si superior in eadem conditione sit in qua subditus, si versetur, dispensatione dignus est, obligatio disinat); S. Alphonsus cum Salmant., Lessio, etc., *per se* obligationem levem seu sub veniali tantum statuit.

"Tertia sententia in hoc convenit cum secunda, ut fundamentum et vim obligationis non repetat ex ipsa legislatoris voluntate, sed ex voluntate divina, quae occasione legis humanae ipsum legislatorem proxime et immediate liget; sed in hoc convenit cum prima sententia, quod eandem speciem (quanquam non eandam intensionem seu gradum) obligationis in legislatore et in subditis agnoscat, ita ut pro diversa materia peccatum specifice distinctum per legis violationem committatur: quum secunda sententia in quibuslibet legibus pro superiore unam eandemque honestatem debitam inesse statuat, *i.e.*, honestatem sese cum reliquis conformandi."

Very few among the Catholic moralists, I imagine, would now be found to endorse the view of Cajetan; and I am of opinion, further, that almost all would agree with Suarez that if the Pope, in the case proposed, were to neglect saying the divine office, he would thereby commit a sin against the virtue of religion. Even those who advocate the second opinion admit that he would commit a sin of some kind; and it does not seem reasonable to suppose that a violation of the fast and a failure to say the divine office are sins of the same *species infima*. Why should it be out of order for a legislator to fail to conform his acts to those of his subjects, unless there is an order established by the law to which all must conform under penalty of being out of order? An order of this kind, however, must be different in kind according to the various special lines—say, of abstinence or prayer—on which it might be established; which is the same as saying that the various acts of compliance with these different lines of order would be acts of specifically distinct virtues; as failures to comply, on the contrary, would be specifically distinct sins.

If, therefore, you agree with Lehmkuhl in preferring the third opinion, the question for you will be, why the sin committed by the legislator should be the same in kind as would be committed by any of his subjects, except that it would lack the character of disobedience. Lehmkuhl explains it by referring to the motive of the law; but how can a legislator's motive constitute a distinct specific virtue or malice, unless by his law he constitutes an order of that special kind? What is meant by a good or sinful act of a certain species, if it be not an act in conformity or out of harmony with a peculiar kind of order? that is to say, an observance or violation of order running on certain lines.

If, therefore, the legislator commits a sin of the same

specific malice as would be committed by any of his subjects, except that he cannot be guilty of disobedience to himself, he is in the same position exactly as that of the religious with regard to rule: he is not bound in obedience, but he is bound in the order constituted by his own act, on whatever line that order may be constitued. The Pope, in the case proposed, would be bound in temperance to abstain from meat on Friday, in religion to recite the divine office. If he is not bound in this way, how is he bound? What virtue would he violate by failing to observe the law in either case?

Chapter XI.—Morality and the Last End.

1. **Relation of Morality to the Last End.**—We are now in a position to appreciate the full meaning of the question proposed in Chapter V. :—whether and in what sense the relation which moral agents bear to God as their last end, enters into the morality of their actions. We have seen that intelligent creatures are bound by the eternal law of God to respect the order which he has instituted. I will ask you to accept another proposition, as expressing the doctrine held by all Catholics regarding the further relation of God to those who either observe or contravene his will in that respect : that he rewards those who obey him, by giving them himself, the Infinite Good, to be eternally enjoyed by acts of intelligence and will ; and punishes those who disobey, by depriving them of that great benefit. This relation of retribution,—in its two-fold aspect of remuneration and punishment,—is natural and necessary ; in the sense that it is demanded by the essence of an intelligent and free creature, and should exist in an order of pure nature, as we say, as well as in the present dispensation of supernatural elevation by grace.

You will understand, then, that according to Catholics intelligent creatures must respect order, under penalty not merely of being inordinate, that is to say, of committing philosophical sin ; as well as under the further penalty of being disobedient to the divine law, that is, of committing theological sin ; but also under the penalty of being deprived of their last end—the enjoyment of the Infinite Good. With respect to this third relation—of desert as regards penalty—a question arises as to whether it completes the moral order as found in the first and second, just as theological perfects philosophical morality. If it does, then the full concept of sin would represent it not only as an act which is (1) inordinate and (2) disobedient, but, moreover (3) tends to separate the sinner for ever from the enjoyment of the Infinite Good.

The question has been answered by all our theologians in the affirmative ; nor do I see how the reader can take a different view, if he reflects on what morality is and what are the relations of man towards his last end. Morality

is an order between essences,—an order of right and wrong, which is participated by the actions whereby the order or disorder is produced. We have seen, moreover, that man is in order completely only when he has a right to his last end ; so that any action of his that deprives him of that right, is thereby out of order or wrong ; not merely because it may have disarranged his relations towards other creatures, or even towards God as legislator ; but precisely because it has deprived him of his right to his last end. Similarly, any action is not completely right if it merely sets created essences in order towards one another, even though thereby the agent himself should, for that reason, be in order towards God, as supreme ruler ; unless, further, its effect should be to set him in order with God as his last end. Order in this respect is the completion and ultimate sanction of all other orders, and cannot itself be made more complete by any further possible order. Unless we are to admit an infinite series of moral forms, some one form must be the last.

2. **Illustrated from Nature of Mortal Sin.**—It may be possible, I imagine, to illustrate and enforce the preceding by referring to the distinction of mortal and venial sins, as explained by St. Thomas and his School. According to these theologians, mortal and venial sins are not sins in the same sense. There is an essential or specific difference between them,—a difference which is derived entirely from the relation which each bears to the last end of the sinner.

If you consider in the first place, the formal constituent of these sins,—that is to say, the free act of will by reason of which the sinner is liable to be held responsible for the evil committed,—you will find that, according to the theologians to whom I have just referred, the formal object of this free act is different according as the sin is mortal or venial. In other words, the formal object of sin is different according as the sinner is liable to be punished by being separated from his last end for ever or merely for a time. Mortal sin, they say, implies an act of will by which one turns away from the Infinite Good and turns to something finite, weighing one against the other, and freely preferring the finite ; thereby giving God a right to confirm the will for ever in this choice. Accordingly, the formal object of the act of will by which mortal

sin is completed, is the finite as such; that is, as compared with and preferred to the Infinite.

Or, if you view the sin as an act of aversion rather than as one of conversion, of hate rather than of love,—every act of love being, at least implicitly, an act of hate of the evil which is formally opposed to the good which is the object of the love-tendency,—the formal object of the aversion in which mortal sin consists, is the Infinite Good regarded as an evil,—as the negation of some finite good towards which one cannot efficaciously tend at the same time. This is the very essence of the form of mortal sin,—deliberate aversion from the Infinite Good, or free choice of something finite in preference to the Infinite. Unless the will tends by an act of love to the finite in preference to the Infinite,—or what is the same thing, unless it tends away from the Infinite towards the finite,—there cannot be formal mortal sin, no matter how serious may be the intemperance, or the injustice, or the disobedience even towards the divine authority, which the faculty embraces.

If this be true,—and it seems to me to be the plain teaching of St. Thomas and his disciples,—it supposes that deordination towards the Infinite Good as one's last end enters into the very essence of mortal sin. In other words, no action or complex body of actions, no matter what other form it may have and no matter how serious the material act may be,—intemperance, injustice, or disobedience in any grade,—is mortally sinful, so that the sinner would by reason of such an act deserve to be separated for ever from his last end, unless in so far as it has been clothed with this special form of deordination,—deliberate aversion from the Infinite and conversion to some finite good.[1] This supposes of course, that moral

[1] In explanation of the precise nature of the malice of mortal sin, Suarez says:—"Mortalis peccati deformitas in hoc consistit quod per illud virtualiter et moraliter plus amat peccator creaturam quam Deum" (*De Vitiis et Peccatis*, Disp. 2. S. 1. n. 3). In the next section (S. 2) he proceeds to inquire "an deformitas proprie constituens peccatum mortale sit distincta ab illa quam actus habet ex objecto"; and he replies:—"Peccatum mortale, ut tale, constituitur ex speciali quadam deformitate quam talis actus habet in ordine ad Deum ultimum finem, quae fere semper distincta est a malitia quam habet actus ex objecto" (n. 2). He says (n. 3) that this special form of evil is hatred of God and is formally opposed to divine charity. "Ex quibus, infero," he continues, "omnia peccata mortalia, ut mortalia sunt, habere aliquam deformitatem ejusdem speciei moralis, in qua conveniunt, licet differant in malitiis sumptis ex objecto." This suggests a difficulty (n. 5):—"Nam fieri potest ut aliquis cognoscens homicidium esse malum morale, etiam contra charitatem proximi, invincibiliter ignoret esse contrarium Deo vel ultimo fini"; in which case, apparently,

disorder is complete only when it is crowned with this supreme deordination.

3. **Applies also to Venial Sin.**—You may ask whether what has been said of mortal sin applies also to venial, so that even this would be incomplete unless and in so far as the sinner, in committing it, prefers the finite to the Infinite Good. Not as if, in committing venial sin, he turns away from the Infinite altogether and finally; since he is supposed to know that the sin is but venial, and, as such, does not deprive him of his right to attain the last end after a period of privation. But he may be aware of the liability to this temporary loss, and, knowing it, freely choose to enjoy the inordinate object by pursuing which it is entailed. This involves, in some measure, a comparison of the Infinite with the finite, and a preference of the latter,—though not a complete and final preference. The act seems to be, in some way, opposed to the love of concupiscence or charity towards God, somewhat as mortal sin is. Consequently, the question may be raised whether this deordination in relation to the Infinite Good, which is also the last end, is in every case the completion of the moral deordination in which venial sin consists.

As a preliminary to the answer I will say that, according to the opinion of our best theologians, one might reasonably be deprived for a time of the Infinite Good, and so separated temporarily from the last end, even though one were formally guilty only of a philosophical

the murderer would not commit a mortal sin. The answer is (n. 7):—"Posita illa ignorantia, actus illius hominis habet totam illam malitiam moralem quae nata est oriri ex objecto pravo cognito, non tamen illam propriam deordinationem et pravitatem quam proprie constituere diximus peccatum mortale."

In this connection it would be well to read the arguments that are usually given to prove the reasonableness of eternal punishment, all of which practically may be reduced to this:—"Peccatum lethale habet infinitam malitiam; ergo proportionatur ei poena quae sit quodammodo infinita. . . [Probatur ant. ex S. Thomas, 1. 2. q. 87, 4. c.]: "In peccato [mortale] duo sunt, quorum unum est aversio ab incommutabili bono, quod est infinitum, unde ex hac parte peccatum [mortale] est infinitum" (Mazzella, *De Deo Creante*, n. 1268). Compare also Lacroix (*Theol. Moral.* De Peccatis, n. 57): "Si peccatum pure philosophicum. quantumvis grave, committeretur, probabile est quod non mereretur poenam aeternam, sed tantum aliquam temporalem. Ita absolute S. Thomas (d. 2. q. 30. q. 3, o) ubi ait: 'Si posset esse conversio ad bonum commutabile sine aversione a Deo, quamvis esset inordinata, non esset pecatum mortale' . . . estque haec sententia Lugoni visa ita communis ut dixerit vix inveniri qui oppositum doceat . . . Ratio est quia peccatum philosophicum nullam in se habet formalem malitiam, etiam secundum quid tantum, infinitam, nam converteret aut averteret a bono tantum finito."

sin. This kind of sin supposes, as we know, a knowledge on the part of the sinner that what he does is a violation of order and therefore wrong, and a free choice of the object which he knows to be inordinate. It does not seem unreasonable to say that one may be punished for such a choice by the supreme Author and Guardian of order, even though one did not know, when committing the sin, that there is such a Being, or advert in the least to the fact that one was violating a command of his. To put this more briefly, a philosophical sin may be reasonably punished by a temporary privation of the last end, even though a perpetual privation could not be justly inflicted except for a formal and total aversion from the Infinite Good; so that mortal sin, but not venial, is of necessity theological. This, I imagine, is now what may be called the received teaching of Catholic theologians.[1]

The question before us, however, is not so much whether a sinner may be punished without injustice even though his sin should be purely philosophical; but rather whether a slight deordination, such as a lie, is complete in the moral order, if the inordinate object is embraced as, say, forbidden by the divine law, but not as leading to a temporary loss of the Infinite Good. It seems to me that it is more inordinate to tell a lie if this is known to be forbidden by the divine law, than if it were known merely to be out of the philosophical order; and, for a similar reason, that the guilt of the liar is increased if he knows that his act is not only one of disobedience to the divine law, but a cause of temporary privation of the Infinite Good. In other words, the one act of lying, materially considered, has, from the point of view of the moralist, three sides or aspects, under each of which it is opposed to the moral order,—to the virtues, that is, of veracity, obedience, and divine love, at least of concupiscence; so that the one lie involves three distinct species of moral deordination, any one or two of which would, of course, be less than the whole.

The sinner, however, is not held responsible for these various kinds of evil unless in so far as he knew of them

[1] "Cum Deus sit auctor et custos naturae rationalis, quod fit contra hanc praejudicat Deo, hinc ad ipsum spectat pro ratione culpae contra naturam rationalem commissae, poenam talem infligere qualem infligeret natura rationalis si injuriam sibi factam posset vindicare; sicut princeps punire potest injuriam a subdito suo factam alteri, quamvis haec non esset formalis injuria vel offensa ipsius principis."—Lacroix, *Theol. Moral.* De Peccatis, n. 57.

and freely embraced them. Hence, his responsibility,—and therefore also his punishment,—will be increased if he knew that his act was opposed not only to veracity and obedience to God, but also to concupiscence of the Infinite Good. This supposes that venial sin, just like mortal sin, is not quite complete as a deordination, until it has received the last form,—of opposition to the Infinite Good or last end. Not as if the previous forms,—of philosophical deordination or theological disobedience,—were not evils of the moral order, and therefore truly wrong and sinful; although, as such primarily, they had no relation to the last end. Rather, these formal evils, though real, were not complete, and could be completed only by getting the final form, with which, as we have seen, an act or complexity of acts is invested when it is conceived by the agent as an aversion from the last end, which is also the Infinite Good.

4. **Applies to Material as well as Formal Sins.**—Throughout sections 3 and 4 of this chapter I have been contemplating formal sin; that is, the sin, whether mortal or venial, on account of which the agent is held to be blameworthy or guilty and is liable to be punished. The reader will see at once that whatever holds of these species of formal guilt is no less true of the material part,—the material sin. For, every sinful form is by nature fitted to complete some corresponding matter; so that in the materially sinful act there must be different aspects, as it were, under which it may be truly considered either as a natural deordination merely, or as an act of disobedience, or as something which, as far as in it lies, renders the agent liable to be separated from his last end. A material sin has all these aspects; and unless the sinner is in ignorance of the full significance of what he does, he must will the external act, not only as a deordination, but also as an act of disobedience and of aversion from God. Hence material sins are truly inordinate apart from any relation they bear to the last end of the sinner; though apart from such relation, the deordination is not complete. Their full sinfulness or deordination is to be found in this, that they tend, as far as in them lies, to separate the sinner from his last end, either for a time, if it is a venial sin, or for eternity, if it is mortal.

5. **Applies also to Merit.**—Are we to judge of good

actions in the same way? We have seen that a sin, no matter how formal, is not mortal, in the sense of deserving the punishment of eternal loss of the Infinite Good, unless the sinner freely chooses to separate himself completely from the Infinite, and to attach himself as completely to a finite good. Is it true in the same way, that the saint does not merit the eternal reward which consists in the eternal enjoyment of the Infinite, unless he intends his act as a means of acquiring this Infinite,—his last end?

This question has been a subject of no little disputation among our theologians, and has called forth a variety of opinions. St. Thomas and his disciples have answered it in the affirmative; and this view does not seem unreasonable, especially if we remember that the punishment of eternal loss of the last end is merited only by an act of complete aversion from the Infinite Good. It seems reasonable to suppose that, as the reward of merit is the possession of a good the loss of which constitutes the punishment of mortal sin; and as this punishment is deserved only by an act of aversion from the good which is lost; so the reward should be merited only by an act whereby the agent attaches himself to the good which he hopes to gain.

There is a difficulty, of course, arising from the consideration that, according to this view, acts of imperfect or incomplete goodness, such as religion or obedience, would not, as such, be entitled to any eternal reward. Here, however, we may again follow the analogy of the sinful order. For, as incompletely wrong acts, such as philosophical sins, or even theological venial sins,—say, of irreligion or disobedience to God,—render one liable to be punished, but not with the eternal loss of the last end; so it may be that there is a sufficient reward for imperfectly good acts, which, whether it is eternal or only temporary, is something different from the eternal enjoyment of the Infinite Good.

6. **Implies Love of Concupiscence, but Probably not of Charity.**—In the teaching of St. Thomas and his school with regard to this whole question of merit and demerit, there is one point which they do not prove to my satisfaction. They say that the peculiar deordination which completes the malice of mortal sin, and makes the sinner liable to be deprived for ever of his last end, is a hatred of God which

is the formal opposite of divine charity.[1] Similarly, they maintain that no good act is meritorious of eternal life,—that is, of the eternal enjoyment of the Infinite Good,—unless it be performed from a motive of divine charity, and thereby invested with the form of that supreme virtue.

For this latter position there is some foundation in Holy Writ, especially in the well-known passage from the thirteenth chapter of the First Epistle to the Corinthians. I cannot, however, see what justification there can be for the view that every mortal sin is formally opposed to charity. It is, as we have seen, an aversion from, or comparative hatred of, the Infinite Good: but may not this aversion or hate be formally opposed merely to the love of concupiscence, which in this life is the basis of the theological virtue of hope? Is not the act of despair, which is formally opposed to the theological virtue of hope, or the sin which is known in theology as the *odium abominationis erga Deum*, an aversion from the Infinite Good?

I regard it, indeed, as true that one cannot elicit an act of divine charity without having first elicited an act of concupiscence of the Infinite Good; and this might make it seem reasonable to say that, if the act of concupiscence has been formally retracted, the act of charity of which it is an indispensable condition must also disappear. This, however, would prove only that sins against the theological virtue of hope are incompatible with an act of charity, not that they are formally opposed to the same. Nay, it would not even prove that all sins against hope are so incompatible, but only some; for, despair, for instance, involves a true act of concupiscence, which, apparently, is all that is required as a basis or first step from which to proceed to an act of charity.

The main argument against the doctrine of these theologians is, that if any sinful act is formally opposed to any virtue, the formal opposite of that act belongs formally to the virtue in question. Love of drunkenness, for instance, is formally opposed to the virtue of temperance; and hatred of drunkenness—the formal opposite of the act of love—is a formal act of the same virtue. On this

[1] "Quaeret aliquis in quo genere et specie malitiae sit propria deformitas quae peccatum mortale constituit. Respondeo, ex sententia Sanctorum et D. Thomae, peccatum mortale, ut sic, contrarium esse haritati, atque ideo deformitatem hanc ad speciem malitiae odii Dei esse evocandam."—Suarez, *De Vitiis et Peccatis*, D. 2. S. 2. n. 3.

principle, hatred of those sins that are formally opposed to the theological virtue of hope should belong formally to charity, on the supposition that the sins in question were formally opposed not only to hope but to charity. No theologian, however, would say that hatred of despair or presumption is a formal act of charity towards God.

It seems to me, therefore, more probable that it is this formal opposition to the concupiscence of the Infinite Good that is necessary to complete the deordination of sin, so as to render it mortal and deserving of eternal separation from the last end. And according to this analogy, however I should have to interpret the words of St. Paul, I am disposed to think that good works performed by a just man, and invested with a form derived from the same love of concupiscence, would merit the eternal enjoyment of the Infinite.

Chapter XII.—Religion and Morality.

1. **Three Questions.**—When writers on ethics discuss the connection between religion and morality, they understand by religion a knowledge of God,—that he backs up the moral order everywhere, rewarding the good and punishing the guilty. Accordingly, the meaning of the question under discussion is, whether and how far morally good or bad acts can be performed by one who has no knowledge of God.

Dependent on this question is another,—whether, supposing it to be possible to attain a knowledge of morality before the existence of God is known, one is justified in deducing, or even compelled in logical consistency to deduce, the conclusion that God exists; whether, briefly, the existence of God can be proved from the existence of an order of right and wrong.

There is even a third question which, as I imagine, is frequently before the minds of disputants,—whether God is necessary to constitute a sufficient sanction of the moral order; or, in other words, whether men are likely to avoid evil and do the right, if ever they come to believe that there is no God to reward or punish them. These three questions are very different and should be considered separately.

2. **Atheists and Morality.**—From what has been said more than once in preceding chapters,[1] it is easy to gather what my opinion is as to the possibility of acts which are truly, though imperfectly, moral—that is, right or wrong—being performed by one who does not know that God exists. It is an old subject of dispute in the Catholic schools whether such a purely philosophical sin is possible. The question came to a head in the first quarter of the seventeenth century, when the following proposition was condemned by Alexander VIII. :—

"A philosophical or moral sin is a human act in discordance with rational nature and right reason, whereas a theological and mortal sin is a free transgression of divine law. Philosophical sin, however grave it may be, in one who either does not know God or does not actually

[1] See Chapters VIII. and XI.

think of him, is a grevious sin, indeed, but not an offence against God; nor is it a mortal sin, in the sense that it does not dissolve friendship with God nor merit eternal punishment."[1]

It would seem at first sight, as if the condemnation of this proposition were equivalent to an authoritative decision that in sinning one is necessarily conscious of transgressing a divine command; and, indeed, this is the conclusion drawn by most of the older theologians who discussed the question. Even among living authorities Fr. Billot writes:—

"Natural knowledge of God is an indispensable foundation of the entire moral life; it is necessary, therefore, that every one who has come to the use of reason should be able to attain it, and should have actually attained it. Whoever recognises that he is bound in conscience, shows thereby that he has certain knowledge of God. Wherefore Alexander VIII. very properly condemned the proposition about philosophical or moral, as distinguished from theological, sin; which supposed that the essence of a wrong act may be found in one who is simply ignorant of God and of his law."[2]

It should be remembered, however, that even though it were true that there could be no philosophical *sin*, it would not follow that there could be no philosophical *morality*. For, although, as these theologians generally contend, sin meant a breach of law; so that the sinner, in committing sin, must of necessity advert to the existence of a law-giver; it would not follow that similar advertence to the existence of a superior authority should of necessity accompany the performance of morally good actions. Hence, even though there could be no philosophical sin, there might be purely philosophical morality.

[1] "Peccatum philosophicum seu morale est actus humanus disconveniens naturae rationali et rectae rationi; theologicum vero et mortale est transgressio libera divinae legis. Philosophicum, quantumvis grave in illo qui Deum vel ignorat vel de Deo actu non cogitat, est grave peccatum, sed non est offensa Dei, neque peccatum mortale dissolvens amicitiam Dei, neque aeterna poena dignum." The proposition was condemned in 1629.

[2] "Praeterea, naturalis de Deo cognitio necessarium est totius vitae moralis fundamentum; oportet ergo ut omnium ratione utentium esse possit, et reipsa sit. Denique, quisquis cognoscit se in conscientia obligatum, eo ipso certam de Deo notitiam habet; unde iure damnata est ab Alexandro VIII. propositio de peccato philosophico seu morali, prout contradistincto a peccato theologico; quasi ratio actus moraliter mali adhuc stare possit in eo qui Deum ejusque legem simpliciter ignorat."—*De Deo Uno*, p. 23.

As to the possibility of purely philosophical sin the Jesuit theologian, Lacroix, says :—

"There is no need to decide in this place whether there is or may be in any circumstances invincible ignorance of, or inadvertence to, God. Some deny it absolutely ; others affirm that there may be, at least for a time. This only do we say, that if one were ignorant of God or did not advert to his law, and in this condition were to do something which is contrary to the dictates of right reason, such an act would not have formal theological malice ; it would, however, have some kind of malice of the moral order, inasmuch as it would be opposed to rational nature ; and this malice may be called philosophical, since it is contrary to right reason by which philosophers are guided."[1]

Viva, another Jesuit writer of great authority on matters of this kind, in a formal dissertation on the exact meaning of this condemned proposition, says practically the same thing :—

"If it be supposed that in some very rare case a sinner is absolutely ignorant of God, not knowing of him even implicitly under the concept of Supreme Legislator, a crime committed in such a state of ignorance, by one who adverts merely to the discordance between his act and rational nature, would certainly be only a philosophical sin."[2]

This seems to have been the common opinion of the older school of Catholic moralists. They taught, indeed, that there is no such thing as purely philosophical sin ; they based this decision on the contention that it is either metaphysically or morally impossible to be invincibly ignorant of God, at least under the concept of Supreme Legislator, and not to advert to his command, when one is engaged in doing what one knows to be wrong. They admitted expressly that if one could be truly and invincibly

[1] "An aliquando detur vel dari possit ignorantia vel incogitantia invincibilis Dei, nihil attinet hic dicere : sunt qui absolute negent ; sunt qui affirment, saltem ad breve tempus ; hoc tantum dicimus, si in aliquo darentur, et talis homo aliquid ageret contra dictamen rectae rationis, hunc ejus actum non habiturum malitiam formalem theologicam, ut satis constat ex dictis, attamen habiturum malitiam aliquam moralem, in quantum esset disconveniens a natura rationali, uti etiam constat ex dictis ; et hanc malitiam possumus vocare philosophicam, quia est contra rectam rationem qua se regunt philosophi."—*Theol. Moral.* L. 5. n. 52.

[2] "Si supponatur in aliquo rarissimo casu possibilis omnimoda, etiam implicita, Dei sub conceptu Supremi Legislatoris ignorantia in peccante, hujusmodi peccatum patratum cum sola advertentia ad discrepantiam operationis cum natura rationali, certe esset pure philosophicum."—*Damnatae Theses*, Tom. I., p. 374.

ignorant of God, one might still have sufficient knowledge of the moral order to commit a formal sin, which would then be philosophical, not theological.[1]

The question, therefore, turns to a large extent on this: is it possible to be ignorant of the existence of God at a time when one is aware of the moral order? It appears to me very difficult, in face of what we know of modern Atheists, to go on maintaining the views that prevailed on this question in earlier and more religious times. Very many children are now being brought up in atheism, and yet not without a certain knowledge of the moral order: is it not hard to believe that from the first moment that any one of these is conscious of moral turpitude, even as possible or as existing in the acts of others,—in acts, say, of deceit, theft, or cruelty,—he or she must of necessity, there and then, entertain serious doubts as to the truth of the religious opinions of parents and friends? It is not necessary to suppose the child to be capable of committing a grave fault; for even slight failings are within the moral order. Are we then to say that a lad brought up in a family where all the surroundings are atheistic, must, from the very first moment when he is capable of committing the least moral fault, have begun to entertain serious doubts as to the safety of his religious position? If not, he is able to commit faults which are truly moral acts, not only materially but formally, and yet are not formal violations of any divine command.[2]

[1] See Viva in prop. cit. n. III. "Quod attinet ad Doctorum sententias de peccato philosophico, certum imprimis est Alexandrum VIII. in hac thesi noluisse damnare ea quae in antiquis et gravibus theologis de hoc puncto scripta legimus; aliter non diceret thesim hanc de novo erupisse. Docuerunt autem plurimi primae notae scriptores, cum Henr. Disp. 5 de Peccat. q. 1; Jo. Poncio, Curs. Theol., Disp. 2, q. 3; Lugo, Disp. 5 de Incarn. S. 5; Martinonio, Disp. 19 de Peccat. n. 40; et fuse Bonae Spei, Disp. 5 de Incarn. Dub 5, n. 132; absolute esse simpliciter imposibile, sive metaphysice sive saltem moraliter, peccatum pure philosophicum; addendo tamen, veluti hypothetice et speculative, quod si per impossibile quis haberet invincibilem Dei ignorantiam, aut de Deo invincibiliter nullatenus, ne implicite quidem, cogitaret, dum advertit furtum v.g. esse rationi dissonum, in tali casu peccatum non foret Dei offensa, nec peccatum theologicum, sed pure philosophicum, eo quod impossibile sit Deum offendi nisi aliquo modo cognoscatur."

[2] Fr. Palmieri, S.J., implies that one might be ignorant of God, at least for a short time. That is sufficient, since within the shortest time it is possible to do what is morally good or bad; it is plain that there is no question of the condition of these whose reason has not yet been developed sufficiently to enable them to become aware of the moral order:—"Attentis subsidiis quibus homo est instructus ad instituendam demonstrationem existentiae Dei, nonnisi ad breve tempus fieri potest ut homo rationis usum

Personally I find it difficult to believe that even adult Atheists must all of necessity be *in mala fide ;* and this, even though, like J. S. Mill and Professor Huxley,[1] they had spent a life-time in the study of philosophy. It is said, I know, that such men may have at some time fallen into deliberate error, or unduly stifled doubts as to the truth of certain principles on which their whole philosophical position depends. The effect of either fault would be, it is urged, to make them responsible for subsequent ignorance, and in this way to convert their sins into offences against the God whom they would have known if it were not for their own fault.

It may or may not be true that scientific Atheists must have stifled doubts at some time, and thereby incurred the guilt of a grave sin of imprudence ; it may be that in this way their ignorance, however invincible for the moment, is in every case culpable in its cause.[2] Suppose, however, that an Atheist is in good faith and invincible ignorance for the moment ; as long as this state of mind lasts it is impossible for him to please or offend a God whom he does not know. And yet, during the same time, is he not capable of distinguishing moral good and evil, and of doing what he knows to be right and wrong ? It would appear, therefore, that not only children, but even adults, may perform acts which are truly, though

habens expeditum, vel ignoret vel neget ens aliquod supremum existere a quo cuncta dependent." " Fieri non potest ut per longum tempus non excitatur ad reflectendum; posita autem reflexione, . . nequit non efflorescere notitia existentis Dei, sub conceptu saltem entis supremi a quo cuncta dependent."—*Inst. Phil.* Theologia Natur. Thes. VII. Compare Lahousse :—" Secunda sententia negat apud homines, mente evoluta, atheismum negativum ad longum tempus esse possibilem ; affirmat vero atheismum positivum dari posse. Alii affirmant atheos positivos diu versari posse in statu certitudinis improprie dictae ; alii hoc negant." Père Lahousse himself lays down the following Thesis :—" Existere non possunt ad longum tempus athei negativi rationis usum habentes ; positivi vero athei dari quidem possunt, sed fieri nequit ut per longum temporis intervallum nulla pulsentur errandi formidine." By positive Atheists he means those who, after having examined the arguments for the existence of God, deny the doctrine.—*Praelect. Metaphys. Specialis*, Vol. III. 104-6.

[1] Professor Huxley often protested during his life that he was not an Atheist. At least he did not believe in any God who cared to reward or punish men for good or wicked deeds ; nor did he believe in any divine law binding us to observe the moral order. That is sufficient to justify the argument in the text.

[2] In this connection Card. Ziglaria says :—" Probabilius est atheos theoreticos revera non dari. Nota terminos propositionis: dico imprimis probabilius ; nam, cum sermo sit de individuis, existimo quaestionem non posse definiri." And again :—" Probabilius etiam est non posse dari atheos theoreticos vere persuasos."—*Summa Phil.*, Theol. (8), IX., X.

imperfectly,—that is, philosophically not theologically,—moral.

Is not this, however, equivalent to the doctrine condemned by Alexander VIII. ? In reply it will be sufficient to quote from Lacroix :—

" The proposition was justly condemned, first, because it does not distinguish between vincible and invincible ignorance of God and advertence to his law, and can be understood equally well of both ; it is certain, however, that vincible ignorance of, or inadvertence to, God, does not excuse from sin against God. Secondly, because the proposition lays it down absolutely that grievous philosophical sin is not an offence against God, whereas it is always at least a material offence, and as often, morally speaking, even a formal offence against him. Hence, if the statement were restricted in this way :—A philosophical sin, however serious it may be in one who is either invincibly ignorant of God, or, *without any fault*, does not actually think of him,—*not even cursorily and remissly*,—is a grievous philosophical sin, indeed, but not a formal offence against God ; nor is it a mortal sin *theologically*, in the sense that it does not dissolve friendship with God nor merit eternal punishment ;—if, I say, the proposition were restricted in this way, it would be a very different statement which would deserve no censure." [1]

3. **Morality not Entirely Independent of Theological Concepts**. But though it be possible in this way to conceive, or even to perform, acts which are truly moral—right or wrong—without having any concomitant notion that these acts are either pleasing to God or opposed to his law, it would be a mistake to regard morality as being entirely independent of any such theological concept. It is but a very imperfect moral notion which can be

[1] " Propositio relata juste damnata est: 1 quia non distinguit inter ignorantiam et advertentiam vincibilem aut invincibilem Dei, et de utraque aequaliter intelligi potest ; est autem certum quod ignorantia vel incogitantia vincibilis de Deo, non excusat a peccato contra Deum. 2 Quia absolute dicit peccatum grave philosophicum non esse offensam Dei, cum semper offensa Dei sit saltem materialis, et moraliter loquendo etiam semper sit formalis. Unde si propositio sic limitaretur : Philosophicum, quantumvis grave in illo qui Deum vel ignorat invincibiliter vel de Deo actu non cogitat *inculpabiliter, nequidem tenuiter et remisse*, est grave peccatum *philosophicum*, sed non est formalis offensa Dei, neque peccatum mortale *theologice* (?) dissolvens amicitiam Dei neque aeterna poena dignum ; si, inquam, sic limitaretur, esset longe alia propositio nec mereretur censuram." l. c. n. 68.—Italics in original.

formed by one who is either invincibly ignorant of, or entirely fails to advert to, the divine law. And when we find an unrestricted statement to the effect that morality is entirely independent of theological concepts, the meaning which we are pretty sure to bear away is, that independently of any divine law the moral order is complete; so that the acts of a convinced Atheist, if such there is, might be as perfectly moral as those of a Christian saint. The true Catholic view is, that, even granting the existence of purely philosophical moral acts, their morality is very imperfect and needs to be clothed with a higher form. We have heard Lacroix say that no matter how serious a fault might be, if it were only a philosophical sin it would not deserve to be eternally punished in hell; and the converse would seem to be no less true, that no matter how good an act might be, if it were not done in some way for God nor referred in any way to him, it would not merit a divine recompense. One cannot be reasonably considered as bound to reward a good action done without any reference to him who is expected to give the reward. To acquire a right to the day's wages it is but fair that the day's work should be done in the master's field.

So much is this a portion of the Catholic system of ethics, that it is true to say, according to the same system, that all work done for God's sake and referred to him is not of equally perfect morality. The fear of God is not as perfect a motive as the love of him; nor is love of concupiscence as perfect as the absolute love of charity. Similarly, disobedience to God is not as bad morally as hatred of him; and even in hate there are degrees of wickedness, since abomination is not so bad as absolute enmity towards the Divine Person. There are Catholic moralists who maintain even that, though it is good to work for God from motives of fear, obedience, reverence, repentance, and so on, no act merits a reward from him unless it is done from a motive of pure and perfect charity. Whether this doctrine is true or false, it enables one to see how the morality of one's acts depends very largely upon the character of the theological motive by which the performance may have been influenced.

4. **Proof of the Existence of God from the Existence of Moral Relations.**—The next question to be considered is, whether, if knowledge of morality does not suppose an

antecedent knowledge of God, it does not at least imply God; so that one who is aware of an order of right and wrong, may easily deduce the proposition that God exists. Some theologians think it possible to do so. Cardinal Franzelin, for instance, after laying it down that "a knowledge of absolute obligation cannot be presupposed as a foundation from which one may rise to the first knowledge of God, inasmuch as knowledge of God is the basis, rather, of knowledge of absolute obligation," goes on to say :—

"One must not conclude that there is no means of ascending to knowledge of God from a knowledge of the moral order and law. For the means, or the argument from the moral order, can be proposed in two forms : (*a*) in conjunction with other proofs of the existence of God ; and (*b*) *per se* and absolutely. . . .

"If we consider the argument in itself and apart from other proofs, certainly we are not justified in supposing that there can be a perfect knowledge of obligation apart from knowledge of God, so that one might for the first time attain the latter by means of the former, as has been said. But perfect knowledge of absolute obligation is one thing, and some knowledge of the moral order, in a wider sense, quite another thing. For, from the very consideration of a rational nature with its tendency towards the true and the good, and from the consideration of human society, one easily understands the necessity and the actuality of the moral order, the existence of a last end consisting in fruition of the true and the good, the necessity and actuality of rights and duties ; inasmuch as these are essential relations of rational nature, which without them would involve contradiction. Now, these essential relations, the necessity and actuality of which are understood in this way, would have no foundation if there were no supreme good, no holy and just legislator and supreme judge. In the same way, therefore, as human reason can know of the existence of God, once it has acquired a knowledge of the physical order ; so can it, from perceiving the essential relations of the moral order, rise to a knowledge of God, the exemplar and efficient cause of the same. This, indeed, *per se* is the objective order of things ; *de facto*, however, and in practice, I think that notions of this kind of the moral order,—as we shall remark elsewhere with regard to the metaphysical notions of the good, the true, the necessary,—are a foundation, not of our

knowledge of God's existence, but of the more perfect knowledge which we afterwards acquire of his perfection and attributes."[1]

I cannot help entertaining serious doubts as to the validity of this argument by which, from a knowledge of the essential relations of the moral order, in which philosophical morality consists, one concludes that there must be a supreme good, a holy and just legislator and supreme judge, the exemplar and efficient cause of these essential relations. If, indeed, it be meant that these moral relations are actualities, and, like all other finite actualities whatsoever, must owe their existence to an efficient cause distinct from and prior to themselves, I do not question the force of the argument. It is not, however, an argument distinct from the ordinary metaphysical proof; it is as if one should first contend that the solar system must have been caused, and then go on to argue that the system of Sirius or Aldebaran must have been caused similarly. Both arguments are valid, but they are not distinct.

I feel also, and have already explained, that philosophical morality, taken by itself, is very imperfect, and

[1] "Imprimis ex dictis evidens est non posse cognitionem absolutae obligationis praesupponi ut fundamentum ex quo perveniatur ad primam cognitionem Dei, cum haec illius fundamentum sit, et ideo non ordine inverso ex illa haec primum attingi possit. Unde etiam Apostolus [Rom. ii. 14-16] potius ex Dei existentia naturaliter cognita deduxisse videtur naturalem cognitionem legis ac ordinis moralis, quam ex hac illam demonstrare voluisse. Non tamen ideo ex cognitione ordinis ac legis moralis nullus est ascensus ad cognitionem Dei. Medium enim illud, seu argumentum ex ordine morali, potest proponi dupliciter: (*a*) in conjunctione cum aliis demonstrationibus existentiae Dei; (*b*) per se et absolute. Primo modo potest ratio. . . Si deinde argumentum per se et ab aliis sejunctum spectetur, non utique potest supponi perfecta cognitio obligationis absque cognitione Dei, ut ex illa ad hanc primum perveniri queat, quemadmodum iam diximus. Sed aliud est perfecta cognitio absolutae obligationis, aliud cognitio aliqua ordinis moralis latius spectati. Etenim ex ipsa consideratione naturae rationalis ordinatae ad verum et bonum, et ex consideratione societatis humanae, facile intelligitur necessitas et existentia ordinis moralis, existentia ultimi finis in fruitione veri et boni, necessitas et existentia juris et officiorum, cum istae sint relationes essentiales naturae rationalis, quae sine his contradictionem involveret. Atque relationes hae essentiales, quarum necessitas et existentia intelligitur, ultimo fundamento carerent, nisi existeret summum bonum, sanctus et iustus legislator, ac iudex supremus. Sicut ergo ex intellecto ordine physico ratio humana potest cognoscere Deum existentem; ita potest ex perspectis relationibus essentialibus ordinis moralis assurgere ad cognoscendum Deum ordinis causam exemplarem et efficientem. Hic quidem per se est rerum ordo objectivus; practice tamen et facto ipso hujusmodi notiones ordinis moralis, sicut alibi dicemus de notionibus metaphysicis veri, boni, necessarii, censeo esse fundamentum non ad primam cognitionem existentiae, sed ad expolitiorem cognitionem perfectionis et attributorum Dei."—*De Deo Uno*, Th. III. (p. 57).

that it gains in simplicity and force by being supported by the will of a supreme legislator and judge. We shall see, almost immediately, that without God there can be no adequate sanction for moral relations. But, admitting the imperfection and want of sanction, what follows? Perhaps the moral order is imperfect and there is no proper sanction. It would be desirable, indeed, that it should be otherwise; but many things which are not actual are very desirable. Unless you are an optimist and regard the present world as the best that could possibly be created, you must admit that it has many defects which it would be well if we could remove. There are defects even in the moral order; for there can be little doubt that the morality of the saints in heaven, whose wills are incapable of deflecting from the right, is of a higher kind than that of us poor sinners who might so easily have been made incapable of sin. To my way of thinking, therefore, it does not follow that God exists because otherwise the universe or any part of it would be very imperfect; nor, consequently, that his existence is proved because there is no other conceivable way in which the moral order can be provided with a sanction and made complete.

5. **Origin of the Notion of Obligation.**—From this may be seen at once what I hold as to the origin of the concept of obligation—of the "ought" in the sense of duty of obedience to a Supreme Ruler. It is not a primary concept of the ethical order; the primary concepts are those of right and wrong, the straight and not-straight, order and disorder. Antecedently to the primary concepts, or even subsequently, though not by way of logical consequence, the Theist will have reached another concept of the physical or metaphysical order,—that of the First Cause, the source and origin of all law; and will have learned that this great Producer and Conserver of all things,—of all essences and orders,—is not indifferent to the welfare of the beings he created, but careful rather to enforce the laws according to which alone they can run the course which he himself has appointed for them, in creating them after one pattern rather than another.

This is the origin of the concept in question. It arises only when one who has a notion of the order of right and wrong, begins to recognise that there is one who is able and willing to enforce that order; who has a right to exact obedience of those whom he himself produced; and who

is impelled by all the necessity of an essence infinitely holy to see that law and order prevail in his dominions.

6. **Notion of Responsibility not Transitory.**—Mr. Spencer contends that the notion of responsibility is dying out :—

"The sense of duty or moral obligation is transitory, and will diminish as fast as moralization increases. Startling though this is, this conclusion may be satisfactorily defended. Even now progress towards the implied ultimate state is traceable. The observation is not infrequent that persistence in performing a duty ends in making it a pleasure ; and this amounts to an admission that while at first the motive contains an element of coercion, at last this element of coercion dies out, and the act performed is without any consciousness of being obliged to perform it. The contrast between the youth on whom diligence is enjoined, and the man of business so absorbed in affairs that he cannot be induced to relax, shows us how the doing of work, originally under the consciousness that it ought to be done, may eventually cease to have any such consciousness. Sometimes, indeed, the relation comes to be reversed ; and the man of business persists in work from pure love of it when told that he ought not. Nor is it thus with self-regarding feelings only. That the maintaining and protecting of wife by husband often result solely from feelings gratified by these actions, without any thought of *must* ; and that the fostering of children by parents is in many cases made an absorbing occupation without any coercive feeling of *ought* ; are obvious truths which show us that even now, with some of the fundamental other-regarding duties, the sense of obligation has retreated into the background of the mind. And it is in some degree so with other-regarding duties of a higher kind. Conscientiousness has in many out-grown the stage in which the sense of a compelling power is joined with rectitude of action. The truly honest man, here and there to be found, is not only without thought of legal, religious, or social compulsion, when he discharges an equitable claim on him ; but he is without thought of self-compulsion. He does the right thing with a simple feeling of satisfaction in doing it ; and is, indeed, impatient if anything prevents him from having the satisfaction of doing it."[1]

In all this there is a certain amount of truth, which

[1] *Data of Ethics*, sec. 46.

deserves to be noted before we pass on to consider the falsehood with which it is overlaid. The truth is, that, to do good, one need not confine oneself to duty. We are not bound to give alms, or to visit the sick, or to study, in all cases where, if we do any of these things, we shall be doing well. The moralist must take account of acts of supererogation.

Nay, there are what may be called motives of supererogation,—which may influence one in the performance of strict duty, but to which one is not bound. It is the duty of the head of a family, for instance, to support wife and children; but in supporting them, he may be actually influenced by love more than by either obedience or justice. It is so that the saints have been wont to serve God,—to do good for pure love of him. This, according to Christian theology, is the highest motive of all. And it is true that the more one grows in sanctity,—and the same applies to a community, such as a nation, and the race generally,—the less are one's actions guided by or performed from motives of duty or of fear.

It is also true, as Mr. Spencer says, that use begets a facility, and sometimes a love, for occupations which at first were irksome. It is so with labour of the intellectual or æsthetic kind; I do not think the same holds of hard manual toil, of lonely watchings, of menial occupations such as the great body of men will have to be content with while the race endures. Even when the work finally becomes pleasant, this is to be accounted for, not only by the facility begotten of practice, but also, in most cases, because other attractions which previously were very powerful have lost their charm. It is not pure love of idleness that makes it hard for a youth to settle down to business, else he should find solitary confinement pleasant. Work tears him away from other enjoyments, which cease to entice as he advances in years and circumstances are changed. In other words, you can dispense with the notion of obligation as long as no strong temptation entices to a violation of duty; and the whole question comes to this: may we look forward to a time when strong temptations will have altogether ceased?

Those who, with Mr. Spencer, believe that the element of obligation will disappear from the moral consciousness, base their faith partly on the Utilitarian notion of morality, and in part on the evolution of ethical ideas and emotions. Love of right, they contend, is more highly moral than

fear of a superior or respect of obligation. If, then, it is true, even as a general rule, that what is right conduces to public weal, so that those whose moral sentiments are most highly developed are fittest to survive in the struggle for existence; and if, moreover, this peculiar fitness is acquired by practice, even under compulsion, whilst fitness so acquired is transmitted and intensified from generation to generation; it follows of necessity that inordinate selfishness must grow ever weaker, and that pure love of right will ultimately suffice to keep the chastened passions within control. Labour and self-sacrifice will become a pleasure and the passions will be reversed; with the result that the highest satisfaction will be found in helping and gratifying others, and the only restraint on this universal altruism will be the fear that others may be deprived of the pleasure of self-sacrifice. Masters and mistresses will be restrained from sweeping chimneys and cleaning out sewers, from cooking the dinner and washing the plates, as cabinet ministers and artists will be kept from turning colliers and smelters, only from sympathy with the sweep and the cook, the collier and smelter, of the future, whose whole hearts will be set on sweating and soiling themselves in the service of others.

This, I believe, is the substance of the argument on which Mr. Spencer relies throughout the *Data of Ethics*,—an argument which he endeavours to confirm by an appeal to the progress in ethical sentiment that has already taken place. I cannot but think that those who are satisfied with this reasoning, neglect some of the most obvious lessons that history teaches. For, the difficulty is obvious. If it is love of right for its own sake that makes one fit, and if this fitness is hereditary and intensified in transmission from generation to generation, how did all the nations that once mastered the world come to fall away after they had risen to greatness? How is it that, except in those cases where the motive is strictly religious, one never sees a rich man engaged in manual labour or menial occupations? You may find a millionaire at work with a palette or a pen, but never with a pick or sledge, a hod or a sweeping-brush, not to mention the more distressful and disgusting implements with which no sane man hopes that the race can ever dispense. Until men cease to be men there must be some members of the body corporate destined for the harder and viler sort of service, while others enjoy a much more dignified position.

I have no doubt that Rome was able to conquer, because those who laid the foundations of her empire were, speaking generally, more virtuous than the surrounding peoples. Prudence, intelligence, frugality, fortitude, temperance, piety, chastity, justice, are leading virtues; they go far to fit a nation for the struggle for supremacy; and I have no doubt that they were characteristic of Roman life in those early days when the seed was sown of what afterwards grew to be a world-wide empire.

Neither have I any doubt that there is a tendency to heredity in these as well as in other traits of character. And yet the average Roman of the time of Augustus was, ethically regarded, of a much lower type than in the iron days of Numa or even of Scipio. This degradation was the effect of forces which waxed more rapidly than the nation's virtuous habits with which they were in direct antagonism. And if there is any lesson to be learned from history, it is this, that the prosperity which results from national virtues, occasions either more violent assaults of temptation or greater remissness in guarding against them; with the result that inherited virtues are gradually weakened and overborne, and that races become ethically degraded by the prosperity which their virtues had enabled them to acquire. Far from finding any pleasure in work or even in fighting, the luxurious Romans of the empire handed over all that business to slaves and foreign mercenaries. One winter at Capua was sufficient to enervate the hardy soldiers of Carthage and deprive them of the advantage they had previously possessed; and if personally acquired characteristics may degrade in this way, how much more surely those which have come by inheritance.

Evolutionists appeal to the progress already made in European morals: hospitals built, disease prevented, justice more strictly yet more leniently administered, better treatment of the poorer classes, war gradually giving way to arbitration, help offered in times of calamity. This, no doubt, is true; but what does it prove? That we have more respect for virtue than our forefathers? Or that, owing to altered circumstances, it is easier for us to exercise certain virtues than it was for them? Weigh the sacrifices made for the sake of morality now and in the ruder times, and which are greater? Your wealthy philosopher who has no temptation to steal spoons, how much has he ever sacrificed rather than yield to the

temptations which strongly entice him to depart from the right ?

No doubt, we are an improvement in some respects on the Celts and Britons of the time of Cæsar. I am not so sure that in their hearts they were so very far behind us,—in their love of truth, temperance, chastity, and other virtues. We are better educated in the arts and the physical sciences ; but are we so very much more moral ? We have fewer and weaker temptations, in many respects ; but are we more firmly fixed in our love of right ? And may not any ethical superiority we may have, be due to the sense of obligation inculcated for centuries by the Christian religion, as well as to the influence of the example held up as a model since the doctrine of mortification and the cross was made known to our ancestors ? Many people think that with the spread of irreligion and religious indifference, and according as old associations lose their strength, our moral sense is becoming as weak as it was in the pagan times. How much restraint is mere love of right likely to exercise on passions when the pinch comes, as come it will, when the people are hungry and the traditional fear of God has been rooted out of their hearts ?

As long as men have stomachs and love to fill them and to take their ease,—which will be while they have bodies of any kind ;—nay, even though they should cease to be capable of any but the higher passions, such as pride, ambition, jealousy ; so long will they strive for possesson of what will always remain either indivisible or insufficient to satisfy the wants of all. Is not struggle one of the factors that make evolution possible ? You talk of arbitration and the good feeling that results from commercial relations ; you hope that wars will ultimately cease ; and this while you see practically the whole civilized world under arms, each nation with a view to make itself master of the commerce of the rest. Food has been plentiful for some years, owing to the immense tracts that have been recently added to the agriculture and the pastures of the world ; and the peoples have not had to fight for bread. But the time is surely coming when these regions will have enough to do to support their own population ; and when " all our harvests are all too narrow " can you imagine either that there will be no strong temptations to injustice, or that the cunning and the powerful will not need some voice to remind them of One who is

stronger than they, and who will see that order prevails in the world?

If I were asked to state briefly why I cannot look forward to a time when the sense of obligation will no longer be necessary as a sanction for morality, I should say it is because I cannot believe either that strongly-pressing temptations will ever cease, or that a mere sense of right and wrong is sufficient to enable one to overcome strong temptations. It is not necessary for my purpose to deny that individuals here and there may be so easily restrained: to tell the truth, I do not believe they are. It is easy to do right for mere love of virtue, in circumstances wherein one is not greatly tempted; but I have not yet met the man, nor do I hope to meet him, who has not his own difficulties, peculiar to his temperament and surroundings, and who is not strongly and frequently tempted, if not to this sin, at least to that. And though individual Agnostics, of the professional, scientific, artistic, or literary classes, may have been able to avoid drunkenness, theft, and such low vices, this is no proof that they have been able to overcome the peculiar temptations by which they may have been at any time strongly assailed. But even though the lives of such men were so immaculate as some of themselves would paint them, it would still remain to be proved that religion has contributed nothing to their success, by creating an atmosphere around them; or that the mass of men can, without assistance derived from the sense of obligation, ever become equally refined.

Nay, even though the condition of the human race were so elevated as that no one should ever feel the slightest temptation to do wrong, nevertheless, wrong and duty would remain, the one as possible the other as actual; and men would be still found to avoid the one and to do the other, even though no one ever dreamed of shirking the obligation. No matter how great the pleasure a man may feel in supporting wife and children, it is still his duty to support them; and no matter how averse he may be to deceit and cruelty, it is still his duty not to commit murder and not to tell a lie. Therefore, even though one should be so hopeful as to look forward to a time when the sense of duty might not be necessary, the notion of duty would still remain.

BOOK II.—THE TEST OF MORALITY.

CHAPTER I.—THE GENERAL PRINCIPLE.

1. **Material and Formal Objects of an Act.**—Having considered the nature of right and wrong, and decided what should be held with regard to the other questions raised in Book I., the next step is to determine how one may know whether a particular action is in or out of order —good or bad.

Now, actions are tested by their effects : actus specificatur ex objecto,—the object being the effect produced ; which, should the action be immanent, proceeding from a faculty of perception or appetite, corresponds exactly with something different and beyond, towards which the action tends—intentionally, as we say. The concrete thing which is reached—perceived or willed—in this way, is called by the Schoolmen the *material object* of the action ; the exact effect or change produced is its *formal object*.[1]

Thus, when a partridge is shot, the bird itself is the material, and the wound the formal, object of the action of the pellet. The pellet, in turn, is the material object, and its changed position the formal object, of the action of the powder ; and so back through the cap, hammer, spring, trigger, through the finger even of the marksman ; till we reach the determination of his will, by which the whole series of actions was set in motion, and which

[1] Object (objectum) means something against which a missile—javelin, arrow, or bullet—is thrown ; hence, by analogy, something outside oneself, or at least conceived as outside the faculty in action, which is reached by an act of perception or appetite. It is in this sense that we speak of the object-glass of a telescope, the object-ball at billiards, the object of one's thoughts or desires. You must be prepared to find the term "object of an action" explained somewhat differently, especially by writers on moral theology, who are not always careful to attend to the strictly scientific meaning of terms. Thus Lehmkuhl says (*Theol. Moral.* Vol. I., n. 31) :—"Objectum hic ipsa actio est, plerumque propria, in abstracto considerata." And truly, the object of an act of will is often an act of the body ; but, surely, this act also has its own object, and its own, at least, material morality. Bouquillon is much nearer the truth when he writes (*Theol Moral. Fundam.* n. 346) :—"Illud in quod actio per se et natura sua tendit, et quod est operationis terminus et finis intrinsecus operis, dicitur objectum actus, quia volunatati agentis primario objicitur. Ergo proprie dictum actus objectum non est nisi actus in abstracto consideratus." I do not know, however, how the wretchedness of the poor man who is relieved by almsgiving can be the object of that act. Is it not rather the relief given ? How, moreover, can this proposition be maintained :—"Actus in suo esse constituitur ab objecto" ? If this be true, surely the act and its object would be identified.

itself was stimulated by the sight of the bird. Manifestly, it is only the formal object that can serve as a test of the character or value of an action; since it is it alone that has been really produced.

2. Object Which and Object By Which.—I have said that when the action is one of perception or of appetite there are two objects; one within the faculty,—a new form or figure of the brain or nerve, which results from and terminates at any instant the motion in which sense-perception and sense-appetite consist; the other object outside,—the thing perceived or intentionally attained, as we say, by the nerve-motion. When I look at the page before me, there is a motion in the nerve and brain, which results every instant in a new form or shape being given to the matter of which nerve and brain are formed. It is by making these new shapes and forms that I see the page. The page is *the object which* I see, the new shapes are *objects* or results *by which* I see the page. For I do not see these new shapes or forms, but only the page; and very few, comparatively, are aware that in seeing the page there is any new form or figure produced by a motion within the organ of vision.

The two objects,—the object which is seen and that by which it is seen,—correspond, in the sense that the changed form represents what one supposes the external object to be, though not necessarily what it is. Hence in the case of external perception by the senses, the internal object produced was called by the Schoolmen *species expressa*,—the image or representation[1] (of the external object seen) formed within the organ of vision.

[1] The Schoolmen speak of the impression produced on the organ of vision by the external object as a *species* or image (*species impressa*); the term also of the reaction excited within the organ,—of the act proper of perceiving,—they called a *species* (*species expressa*). It is not by any means necessary to conceive these *species* as images, somewhat like the impressions left on plates used in photography. When, for instance, one sees a horse, the Schoolmen did not think that there was a tiny image with all the proportions of a horse produced on the retina. Yet the effect produced must not be regarded as a mere symbol, as when the word "horse" is perceived by the ear. The mere symbol,—the word "horse"—does not, of itself, produce a perception of the animal, in the same way as the impression left on the eye when one sees the horse. This, however, is a matter for physiology; for our present purpose it is sufficient to know that in the process of perception some change is produced in the nerve; that this change has a term, which consists in a new form or figure produced in the substance of the nerve; and that it is by means of this term (by the objectum quo) we perceive the external object (the objectum quod).

What is true of sense-perception holds equally of sensitive appetite, which also is a movement of the organism and tends towards an external object, whilst resulting in new shapes of the nervous matter in which the movement subsists. The liking which I may feel for a glass of wine is a movement of the nerve and brain; and though this movement must result every instant in a new shape of the organ in which it is supported, yet it is not these shapes but the external object—the wine—that is liked.

Something similar, though only analogous, holds of the spiritual faculties of intellect and will, of which the first perceives and the second desires by means of what are called spiritual motions,—motions which are not changes of form or figure, since what is spiritual has no form or extension; but which, nevertheless, are objective realities of some kind such as we cannot represent to ourselves except in a gross, material way, as passages from image to image.[1] We cannot represent any object except under some kind of material concept; hence we call the souls of men spirits, that is, air or gas of some kind, like what we breathe—this being the finest form of matter that was known to the ancients. The *object which* is seen or willed by these spiritual notions, is outside the faculties; *the object by* or *in which* this is seen, is within. Both are formal objects, not material,—the *objectum formale quod* and the *objectum formale quo*.

3. **Necessary to Discriminate between Acts and Motives**—Now, in forming an estimate as to the morality of any action it is obviously necessary to attend to the action in question and its formal object. And as it will often happen that two or more actions take place simultaneously, it is necessary to distinguish them and form separate estimates of each.

[1] These intellectual images are called by the Schoolmen "species," after the analogy of sensitive perception,—the "species intelligibilis impressa" and the "species intelligibilis expressa."

Since the object *which*, and the object *by* or *in which*, correspond, either will serve as a test of quality as far as this treatise is concerned: it is usual to take the better known of the two—the object *which*. The distinction becomes of the utmost importance in discriminating between natural and supernatural acts. The object *which* may be exactly the same in both orders, but the object *by which* is necessarily different,—that is, when the acts of both orders differ in substance and not merely in mode; somewhat as you may play the same piece of music (the object *which*) on a brass instrument or on a silver instrument, but the effect produced within the instrument (the object *by which*) will be always different.

For example, suppose a physician gives the proper medicine to one who is ill, thereby effecting a cure, it is well to distinguish the external act of giving the drug and the internal act of willing to heal, to which you may add the act by which the physician saw or knew what was the proper remedy in the case. Take the giving and the will to heal: both are right, therefore in order morally. Suppose, however, either that with the best will to save his patient the physician kills him by giving him poison; or, conversely, that a malevolent person gives a wholesome drug with a view to kill; the external act will be bad or good while the corresponding internal act of will is good or bad. You are to judge of each act by what it does, exactly,—by its own formal object. As long as the drug administered is wholesome, the thing done externally,—the effect produced by the external act of giving,—is good and wholesome. It may be, indeed, that a different effect is produced internally,—an *object by which* which represents or corresponds to murder. This, however, proves only that the internal act was evil, since it produced this evil effect.

4. **The Question of Motives.**—This raises the question, so much debated recently, as to the effect produced on an action, from the moral point of view, by the motive from which it is done. In his work on Utilitarianism Mr. Mill says[1]:—

"The motive has nothing to do with the morality of the action, though much with the worth of the agent. He who saves a fellow-creature from drowning does what is morally right, whether his motive be duty, or the hope of being paid for his trouble; he who betrays the friend who trusts him, is guilty of a crime, even if his object be to save another friend to whom he is under greater obligations."

In a later edition the author appended to this passage an interesting Note, to the effect that—

"An opponent, . . . (the Rev. J. Llewelyn Davies) has objected. . . . Surely the rightness or wrongness of saving a man from drowning does depend very much upon the motive with which it is done. Suppose that a tyrant, when his enemy jumped into the sea to escape from him, saved him from drowning simply in order that he might inflict on him more exquisite tortures, would it tend to clearness to speak of that rescue as 'a morally right

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action'? Or suppose, again, according to one of the stock illustrations of ethical inquiries, that a man betrayed a trust received from a friend, because the discharge of it would fatally injure that friend himself or some one belonging to him, would utilitarianism compel one to call the betrayal 'a crime' as much as if it had been done from the meanest motive?"

To which Mr. Mill replies:—

"I submit that he who saves another from drowning in order to kill him by torture afterwards, does not differ only in motive from him who does the same thing from duty or benevolence; the act itself is different. The rescue of the man is, in the case supposed, only the necessary first step of an act far more ferocious than leaving him to drown would have been. Had Mr. Davies said, 'The rightness or wrongness of saving a man from drowning does depend very much'—not upon the motive, but—'upon the *intention*,' no Utilitarian would have differed from him. Mr. Davies, by an oversight too common not to be quite venial, has in this case confounded the very different ideas of Motive and Intention. There is no point which Utilitarian thinkers (and Bentham pre-eminently) have taken more pains to illustrate than this. The morality of the action depends entirely upon the intention, upon what the agent *wills to do*. But the motive, that is, the feeling which makes him will so to do, when it makes no difference in the act, makes none in the morality; though it makes a great difference in the moral estimation of the agent."

5. **Criticism of Mill's Doctrine.**—In the resolution of the cases proposed and the reasoning and terminology of Mr. Mill, there are so many points with regard to which I find myself in disagreement that I do not know where to begin my criticism. I will take the doctrine first.

Is it true that the act by which the drowning man is saved is different in both cases? Does not the difference begin after the man has been saved, that is, as far as the external acts are concerned? Suppose some one were to come up just as he was being taken out of the water, and rescue him from his enemy, would not that enemy have done him the greatest good by saving him from drowning? Hence Mr. Davies' objection is quite unfounded, and it is surprising that this was not seen by Mr. Mill. While the tyrant was rescuing the man from drowning he was really

performing two distinct actions; one with his arm, and this was entirely good,—so far; the other with his will, and this was bad. He committed a crime with his will, while with his arm he performed a morally good action; so that the supposition underlying Mr. Davies' questions is quite untenable, just as it is wrong to say with Mr. Mill that the "morality of an action depends entirely upon the intention,—that is, upon what the agent wills to do."

Coming now to the question of terminology, of course it is hard to say that if by the words "motive" and "intention" the Utilitarians mean what Mr. Mill says they mean, they have not a certain right to use terms in a sense which has become more or less common through the writings of the school. It is to be regretted that they should have separated themselves in this matter from the philosophers who preceded them, and who used the terms "motive" and "intention" in a very different and a very definite sense.[1]

6. **Scholastic Terminology: Current Solution**:—According to the usage of the Schoolmen the word "motive" has always reference to an act of appetition, and means the precise formal object unto which the appetite tends,—*formalis ratio motiva* or *objectum formale quod*. "Intention" is the action whereby the appetite tends to this object.[2] Thus, if you save a man from drowning for the

[1] Owing, perhaps, to the influence of the Utilitarian school, certain modern Catholic writers attach to the term "motive" a singular—for Catholic philosophers—and inconsistent signification. As an example take the following from the late Dr. W. G. Ward—(*Phil. of Theism*, vol. i., p. 339):—"According to our use of the terms 'motive' and 'attraction,' to ask what is my motive for some action is to ask what is the end which I have resolved to pursue, and for the sake of which I resolve on the performance of that act. But if a Determinist asks me what is my 'motive' for some action, he means to ask me what is the attraction which allures, and infallibly determines me to do what I do. By 'motive' he means an 'attraction'; but by 'motive' we mean not a certain attraction, or a certain solicitation, but a certain governing resolve." Is, then, a "resolve" the same thing as "the end which I have resolved to pursue"? Is not the Determinist nearer the truth when he says,—if, indeed, he does say it,—that the "end," "attraction," and "motive" are the same thing exactly? The extract from Mill which has been quoted in the text does not look as if that were the meaning which he attached to the term "motive." For the usage of other authors, see Sidgwick, B. iii., ch. i., s. 2; Green, *Prolegomena*, B. ii., ch. i., ii.

[2] In the most strict signification, the term "intention" is used only when the object before the appetite is an action to be performed by the agent by whom the intention is elicited. In this sense one would be said to intend a murder or an act of beneficence; but one could not be said to intend,—meaning to enjoy,—food or a pleasant landscape.

purpose of torturing him, the motive of your action—the precise reason why you desire to save him—is the torture you wish to inflict. Your intention in effecting the rescue is not the external act of torturing, but rather the internal act of desire,—the act by which you tend internally towards the motive.

According to this terminology there is no difficulty about the cases proposed. Both the external act of rescuing and the internal act of desiring to rescue, have each its formal object; each effects or tends to a very definite thing. According as this thing is in order or out of order, the action which tends to or produces it will be right or wrong. This holds of either of the acts in question independently of the other, just as a marksman or an artist may have a thoroughly good intention, although his shooting or his carving may be of the worst.

7. **Object, End, and Circumstances.**—Some, I feel, will be slow to admit the foregoing as a correct statement of the teaching on this subject which has prevailed traditionally in the Catholic schools; and will insist, rather, on the formula which is to be found in all our handbooks, to the effect that the morality of an action is derived, not from the object alone, but from its circumstances also, as well as from the end of the action.

If, however, you analyze the meaning, you will find that this latter phraseology is merely an expansion of what I have said. For what is any end but the nearest motive or formal object—objectum formale proximum—proposed to itself by the will? And what effect have circumstances but to individualize this formal object and make it this and no other? Now, when I say that the formal object and it alone is the test of goodness or badness in an action, I mean the individual formal object,—this death produced in these circumstances, this torpor caused by this glass of wine. Hence, the individual formal object towards which this act of will tends, includes both end and circumstances. There are two reasons, however, which influence me to prefer to say that the formal object alone is the test of the morality of an action:—first, because the formula as thus expressed serves to test the morality not merely of acts of will, but also of those of the body and the intellect; and secondly, because it is the formula, which holds elsewhere, in chemistry, physics, psychology. speculative theology, and every deportment of science

The general axiom is: actus specificatur ex objecto formali proximo; or, as we say in English, you can know what kind an action or an energy is by observing what it does.

8. **Effect of Intention on the Morality of the External Act.**—Others who are familiar with Catholic works on moral theology, will, I fear, object to the view here set forth,—that when an act of the will is joined to an act of the body, the morality of each must be estimated separately, the act of will being powerless to affect the morality of the external act. I have heard it maintained that there are external acts which must be considered good or bad according to the intention with which they are accompanied; as, for instance, when one takes a book from a friend's house with intent to steal, in circumstances wherein he might otherwise reasonably presume on the friend's permission. It was held that in this case the external act would be one of theft, and therefore morally bad, whereas the very same act would be quite legitimate if it were not accompanied by the unjust intention.[1]

In the same way Cardinal De Lugo[2] maintains that if A owes a sum of money to B and is killed by C, this act will not be one of strict injustice towards B, unless C killed A in order to deprive B of his chance of getting back his money; the moral character of the act of killing being made to vary with the intention of the murderer. Other cases in illustration arise and are discussed here and there in any ordinary treatise on justice.

Now, I freely admit that the morality of external acts may be modified by such antecedent acts of will as are necessary for the validity of contracts. He who, without any real intention of parting with his property, has completed the external form of selling a horse, may destroy the animal without injustice; whereas the same act of destruction would be unjust if the sale had been internally complete. Similarly, there are actions which between man and wife are morally good, but would be evil if, at the

[1] Vogler (*Juris Cultor*, n. 401) says this is the common teaching:—"Quando ponitur opus externum quod est indifferens ut noceat vel non noceat alteri, saepissime propter varietatem intentionis variatur obligatio restitutionis. Ita omnes." He proceeds to make three cases, of which the first and second are but variations of the borrowing case just mentioned; the third proves nothing.

[2] *De Justitia*, Disp. 8, n. 75; D. 18. n. 99.

time the marriage ceremony was performed, either of the parties had no real internal intention of contracting.

This, however, is very different from the question in which we are now interested. Supposing the horse to have been really sold and thereby to have become the property of the purchaser, I cannot conceive how the former owner, whatever his intention may be, can make any use of the animal against the present owner's will, without thereby committing injustice. Neither can I understand how any mere intention can alter the morality of sexual actions between persons who are either really married or really unmarried.

If in the light of these principles we examine the case of one who takes an object with intent to steal, when he might legitimately have borrowed it with the owner's presumed consent, we shall find that it does not present any peculiar difficulty. The preliminary question to decide is, whether the owner does or does not consent to have the object taken. If he does, then the taking is not theft, no matter what may be the intention with which it is taken. If he does not consent, then the external act is theft, however reasonable the agent may have been in regarding his action as justified. It is exactly the same as if, instead of presuming on the consent of the owner, the person who takes the object had obtained express permission. If the extenal words or form with which this permission was given was accompanied by a true internal intention of giving, and as long as this intention lasts, there will be no external theft or injustice. If there was no such internal intention, but possibly the reverse ; or if the intention has been revoked ; the external act of removing the object will be unjust, and this in every case, altogether independently of the good or bad faith of the person who is supposed to act on the concession.

When I say " as long as this intention lasts " and " until it has been revoked," I suppose that a loan made gratuitously may be recalled at any moment, and that this recall would be efficacious even though it should be merely a change of internal intention. Should this not be true, you may erase these clauses and the solution will hold good. It will hold equally if " presumed " is substituted for " express " permission. As long as the permission, whether expressed or presumed, lasts, but no longer, must the external act of removing the object be considered just, quite independently of any intention

which may exist simultaneously in the mind of the person by whom it is removed.

With regard to Cardinal De Lugo's argument, I submit that it supposes two things both of which have been contested : first, that, as a matter of fact, B's right is effectively violated when his debtor, A, is killed by C with intent to deprive B of any possibility of recovering the debt ; and secondly, that, in case C should have no such intention, he does not effectually violate B's right, even though he should kill his debtor, A. I am disposed to think that in this latter case there is an effective,—though, of course, but a material—injustice committed against B ; and hence that the intention of causing this precise injury has nothing to do with making the external action unjust.

This is not the place for the full discussion of cases of this kind ; but I may be allowed to say that since A owes money to B, the latter has a claim on the person of the former. This means that a part of the capital—not definitely ear-marked, of course—locked up in A's potential energies, is B's property ; and inasmuch as all these potential energies are destroyed by killing A, it follows that this act is an injury to B.

Chapter II.—The External Action.

1. **Difficult to Apply the General Principle.**—The general principle just explained—that actions are to be considered morally good or bad according as their effects or objects are in or out of order—could be applied with comparatively little difficulty, if we had to take account of but a single action, or if every action had but one effect or object. The practical moralist, however, soon finds that the will rarely embraces an object for one reason only—that two or more tendencies frequently run into and mix with one another. And though this does not hold for actions of the body, at least to anything like the extent to which it prevails in connection with acts of will, yet we find that in very many cases acts of the body produce more effects than one. Some of these effects may be in order, while others are out of order; and the difficulty then is to apply the general principle so as to decide which of these effects—the good or the bad—should serve as a test of the morality of the action by which they were all produced.

I will ask you to take the external act first,—as acts of that kind are more palpable,—and to see how the difficulty works out. To administer an anæsthetic, like chloroform or ether, is a simple act which has in every case some evil result. Sometimes, however, it produces a good effect, as when a serious surgical operation has to be performed; and the question arises whether this makes the action lawful. When an athlete makes a very great effort, especially if it should be of long duration, he invariably does some injury to his constitution; is it, therefore, wrong for an oarsman to put such a strain on his organs in order to win the championship? As you walk through the fields in summer, with every step you crush the life out of some lowly creature,—very probably more than one such,—whose pangs are real, though they may not be so great as are felt when giants die. It is wrong to inflict such pain needlessly; a Brahman would think it wrong in any case; the ordinary Christian, however, thinks it no evil to walk through the fields. Which view is ethically right? Does the good done by vivisection justify that practise, notwithstanding the pain?

Catholic writers on moral theology are wont to put an extreme case, to which it way be useful to call attention here, especially as it has given rise to difference of opinion, and may for that reason help one to realise the difficulty of applying the general principle to these external actions. It is the case of the treatment of the human fœtus when parturition is dangerous for the mother. Some physicians think it right to kill the child by what is called craniotomy; others cause premature birth, and this at a stage of pregnancy so early that it would be impossible by human means to preserve the infant's life. Even this latter practice is regarded by the Catholic Church as ethically unsafe, and our physicians are instructed not to cause abortion directly in cases of this kind, unless at a period when it is possible by human means to keep the child alive. At the same time they are told that, even though at an earlier period of pregnancy parturition should result from the use of certain medicines or from certain treatments, these may nevertheless be administered or practised, provided their direct tendency is to alleviate some other pain or distress on the mother's part. In all such cases the action is one—craniotomy, administering a drug, or some external treatment; some of these actions are recognised to be lawful, others are considered unlawful; how does the effect or object of the action serve as a test of its moral character?

2. **Not a Question of Intention.**—Before proceeding to criticize the explanation given, whether by the Catholic moralists or by the Utilitarians, it may not be out of place to remind the reader that the question now before us has to be considered independently altogether of any intention with which the external action may be accompanied. For, just as it is wrong to cause directly the death of an innocent person, or to take away property against the owner's will, no matter what may be the intention of the agent in either case; so, in the case of parturition, it is held by Catholic writers that it is wrong to cause directly the death of the child, although the physician in attendance may do so in the most perfect good faith, believing it to be right, and intending merely to save the mother at the child's expense. When the agent acts in good faith the sin is only material, of course; the sinner will not be held responsible nor be liable to punishment except for a formal crime; but this does not reduce the

external act to order,—does not make it ordinate and right: and the same applies to all similar cases.

3. **Test Commonly Applied by Catholic Writers.**—Coming now to the explanations current among writers on morals, I find the following in Lehmkuhl, who will be accepted as a representative modern Catholic theologian :—

"It is lawful to perform an action which produces two effects, one good, the other bad,—provided (1) the action, viewed in itself, is good or at least indifferent; (2) the agent does not intend the evil effect, but only the good (it is well to add in some cases : and provided there is no danger of subsequent evil consent or intention); (3) the good effect is produced as immediately as—that is, not by means of—the bad; (4) and there is a sufficiently weighty reason for permitting the evil effect."[1]

There is not one of these four conditions that does not present difficulties to my mind. Let us take them in order :—

(1) "The action"—that is, as I understand it, the external action—"viewed in itself, must be good or at least indifferent." But is not the whole question at issue this : how is one to know whether this action is good in itself, when its effects are good as well as evil? You tell me that it is to be considered lawful—which is the same as good—if, among other things, it is good in itself; and I do not see how this makes me a whit the wiser.

(2) "The agent must not intend the evil effect, but only the good." But, according to the doctrine laid down in the last chapter, the question of intention or subsequent consent does not arise. We want to test whether a certain external action, regarded in itself, is morally good or bad; and I think I have shown that external acts, as such, do not depend for their morality on any concomitant or subsequent act of the will. If I directly slay an innocent man, my act is morally wrong, no matter how holy my intention may be; so too, if I rescue some one from drowning, I am

[1] "Licet ponere actionem ex qua duplex effectus oritur, bonus alter, alter malus, modo 1, actio *in se* sit honesta vel saltem indifferens, 2. effectus malus ne intendatur, sed bonus (in quibusdam rebus addi potest: neve sit periculum pravae intentionis vel pravi consensus secuturi), 3. effectus bonus saltem aeque immediate atque effectus malus, i.e. non mediante effectu malo, sequatur, 4. adsit causa relative gravis ad effectum malum permittendum."—*Theol. Moral.*, Vol. I., n. 12.

doing right, so far, even though the rescue should be effected with a view to cruelty. Let it be remembered always that the question at issue is, not whether the agent in a particular case commits a sin by an act of his will, but rather whether his external act is materially lawful or unlawful.

(3) "The good effect must be produced as immediately as—that is—not by means of the bad." Is this universally true? When chloroform is administered before a surgical operation, or when a diseased leg is amputated to save life, are the good and the evil effects produced simultaneously? Does not the good effect—passivity under the operation—result from the evil effect—unconsciousness? When a servant tells some inconvenient visitor that the mistress is not at home, is not the good effect—the relief of the mistress—produced by means of the evil effect—the wrong impression made on the mind of the visitor? Suppose the defenders of a besieged city to be induced to surrender sooner than they should have surrendered otherwise, by reason of the loss of health and life caused by the bombardment and siege to the women and children within the fortress, is that any reason why the besieging commander should restrain his artillery-men, lest the surrender should be brought about by means of such evils? One might, in fact, put the general question: why is an effect to be set down as an evil, if in its turn it is a cause of good? Why should a cause of good be regarded as evil?—a question which we have asked already of those who maintain the Utilitarian theory.

(4) "There must be a sufficiently weighty reason for permitting the evil effect." In another work of mine I have criticized the terminology "permitting the evil effect." One causes and does not merely permit an effect of one's own action. I have nothing to add to what I have already said on this point; nor does it affect the question which I have now before me.

The "weighty reason" required is the good effect which must also be produced by the action. The meaning, therefore, is, that the effect of the action must not be uniformly bad; nay, the good effect which it produces must be so great, compared with the bad, as to justify the action which results in this bad effect. Now, it is not much addition to one's sum of knowledge to be told that an action is wrong which does not produce any but an evil effect; nor does it help much to be informed further that the good

effect produced must bear some proportion to the evil. The real question is, why one action is right and another wrong, though each produces a good effect, which, even when the action by which it is produced is ethically wrong, may predominate very greatly over the evil result of the same action?

4. **Direct and Indirect Causality.**—I have noticed that the moral theologians who, when treating of general principles in dissertations on Human Acts, have gone to great pains to elaborate all these conditions put forward by Lehmkuhl, do not make much use of the somewhat cumbersome principle thus established, when they come to practical work; but fall back on quite a different distinction which they draw between direct and indirect causality,—terms which one almost never finds in treatises on Human Acts. There, indeed, we meet with direct and indirect voluntariety or intention, which, as I have all along insisted, is quite foreign to the question at issue; but scarcely a word about direct or indirect causality of the external act. And yet it is on this latter distinction that, later on, they base their conclusions regarding, let us say, the morality of such an act as the killing of an innocent man. I do not think anyone conversant with the details of moral theology will deny or doubt this latter statement. It is important, then, to consider whether the distinction between direct and indirect causality may not serve as a basis for the test which ought really to be applied in all those cases of mixed results.

I do not find it an easy matter to ascertain the exact nature of this causality which is said to be indirect. Whether one turns to the philosophers or to the theologians who make use of the term, no satisfactory explanation is forthcoming. The philosophers should be the best authorities; so we will have recourse in the first place to them.

In Cardinal Zigliara's handbook I find the following:—

"An efficient cause may be such *per se* or *per accidens*.[1]

[1] In formal dissertations on the nature of the distinction between the different kinds of causes, one rarely finds the terms "direct" and "indirect causality"; it is nearly always *causa per se* and *causa per accidens*. In practice, however, when writers on morals come to apply their principles, one finds the distinction expressed by the terms "direct" and "indirect causality." Thus, it is said that God is not the direct, but the indirect, cause of sinful actions; and whenever any kind of action is

The first [the cause *per se*] is that which produces the effect of itself and directly, so that the effect is connected with and formally depends upon the cause. An efficient cause *per accidens* is that which does not produce the effect directly. The effect does not formally depend upon such a cause, but is ascribed to it indirectly, by reason of the activity which it exercises formally or *per se*."[1]

In further explanation the learned writer refers to the following paragraph in another chapter of the same work:—

"To be *per se* produced by a cause, is to be produced by the power of the cause precisely as this is ordained to produce a determinate effect, as combustion is caused *per se* by fire. To be produced *per accidens* by a cause, signifies that an effect is produced on which the cause itself, formally considered, does not exercise any influence; but with which, nevertheless, the cause, considered materially, is connected. So, if it be said: the singer heals, the healing is ascribed formally to the physician as its cause *per se;* but, since we suppose the physician to be a singer, the same healing is ascribed to the singer *per accidens* and materially. Similarily, if when digging a grave one should chance to find a treasure, the digging of the grave would be called the effect *per se;* but inasmuch as with this is connected, unintentionally on the digger's part, the finding of the treasure, this latter is called, in relation to the digger, an effect *per accidens*. Accordingly, it is plain that an effect *per accidens* can be such both by reason of the cause, if it is materially connected with the cause *per*

justified, although it may result in the death of an innocent man, the formula is that the death is caused indirectly, not directly. In Cardinal De Lugo's treatise on Justice, for instance, the title of one of the sections (D.X., S.4) is:—"Utrum liceat aliquando interficere directe innocentem?" And the dissertation commences:—"Dupliciter potest hoc contingere. Primo ita ut directe et per se occidatur innocens; secundo, ita ut saltem indirecte et per accidens, et praeter intentionem." In fact, the question mooted in every case is, not whether it is lawful to cause *per se* or *per accidens* the death of an innocent man; but whether it is lawful to do so directly or indirectly. Accordingly, in the passage quoted from Cardinal Zigliara's handbook, to produce *per se* is synomous with to produce directly: "A cause *per se* is that which produces its effect of itself and directly."

1 "Causa efficiens *per se* et causa efficiens *per accidens*.—Prima illa dicitur quae ex seipsa et directe influit effectum, qui propterea ipsi connectitur et ab ea formaliter pendet. Causa efficiens per accidens illa est quae non directe influit effectum, neque effectus ab ea formaliter pendet, attamen ipsi tribuitur indirecte, ratione scil. efficientiae formalis seu per se."—*Summa Phil.*, Ontol. 44, iv.

se ; and by reason of the effect, if it is materially connected with the effect *per se.*" [1]

I confess I cannot see in all this any basis of explanation of why it should be wrong to cause directly the death of an innocent man, but right to produce the very same effect indirectly. The action of firing a shell into a besieged town and thereby killing innocent people, is the same whether it be performed by an agent in his character of soldier waging just war, or of a personal enemy seeking to satisfy private and unjust resentment. How is the effect produced more directly in one case than in the other? Suppose the treasure found by your grave-digger really belongs to another man, how does it affect one's opinion as to the morality of the action of finding and keeping it, to be told that it was in his capacity of grave-digger that he found the property ?

Fr. Palmieri, I think, comes nearer to the idea which is so commonly conveyed by writers on morals :—

" A cause *per se* is one which produces what is intended by reason of its action ; whether this intention be an intention properly so called, that is, of the will ; or an act improperly called an intention, that is an ordination of nature. A cause *per accidens* is so called by reason of an effect which the cause intends as a means to something else, or which merely follows from the presence of that which is intended."[2]

The distinction is more clearly brought out by Lehmkuhl :—

" A cause may be such either *per se* or *per accidens*,

[1] " Nota quod esse per se ex aliqua causa est produci ab ipsa causae virtute ut ordinata ad determinatum effectum producendum, ut combustio est per se ab igne ;—esse per accidens ex aliqua causa est effectum aliquem produci, in quem causa ipsa formaliter sumpta non influit, sed ipsi tamen materialiter acceptae conjungitur. Ita cum dicitur, cantor sanat, sanatio tribuitur formaliter medico ut causae per se; at quia medicus ipse supponitur cantor, cantori materialiter et per accidens tribuitur ipsa sanatio. Pariter si quis sepulchrum effodiens thesaurum forte reperit, effossio sepulchri dicitur effectus per se, qui tamen, quia praeter intentionem fossoris conjungitur inventioni thesauri, haec dicitur, respectu fossoris, effectus per accidens. Patet igitur effectum per accidens esse posse tum ex parte causae quae materialiter conjungitur causae per se, tum ex parte effectus, qui materialiter conjungitur effectui per se."—*Ibid.* 18. viii.

[2] " Causa per se dicitur ea quae agit id quod ratione suae actionis intenditur : sive haec intentio sit intentio proprie dicta voluntatis, sive impropria, h.e. ordinatio naturae ; causa per accidens dicitur respectu effectus quem ipsa ratione alterius intendit ut medium, vel qui solummodo consequitur ad id quod intenditur."—*Instit. Philos.*, Ontol. Cap. III. : De Causa Efficiente.

according as it is calculated, of its own nature and intrinsically, to exercise an influence on the effect in question, or this influence is exercised only on the occurrence of other circumstances. Thus, . . . the application of fire to the roof of a house is the cause *per se* of the burning of the house ; whereas if one were to kindle a fire in a remote place, and a breeze were to arise unexpectedly and carry the flame to the roof of the building, the lighting of the fire would be only *per accidens* the cause of the burning. In the same way a professor who in a public lecture on chemistry explains the efficacy of a certain poison, may be the cause *per accidens*, or the occasion, of a murder which one of those present might afterwards commit ; whereas, if the same professor were asked by some one for a means of secretly killing an enemy, and were to point out the efficacy of the same poison, he would be regarded as causing the murder *per se*."[1]

Now I do not at all wish to deny that the intention of the man who is supposed to have lighted the fire, or of the professor, would be very different in the different circumstances explained. In one case he should of necessity intend to burn the house or to supply the means of murder ; in the other case he would merely intend to light his pipe, let us say, or to teach his class. I have, however, to repeat once more that the question is not as to what he may be reasonably presumed to intend, but rather and only as to the morality of the external action, no matter what may be the concomitant intention with which it is performed. If the man who is supposed to have lighted the fire did so expecting the wind to rise and carry the flame to the house, every moral theologian with whose works I am acquainted would regard the burning, in many cases at least, as the direct effect of the external action of the agent. But the external action and its effect would be precisely the same even though he did not expect the wind to rise, and had

[1] "Causa per se et causa per accidens, prout causa ex natura sua seu intrinsecus ita comparata est, ut influxum exerceat in effectum, de quo agitur, aut influxus ille tantummodo aliis occurrentibus circumstantiis adest. Ita in exemplo, tecto ignes subjicere, domus comburendae causa per se est ; sed in loco remoto ignem accendere, quem ventus ex improviso exortus in tectum domus conjicit, incendii causa per accidens est. Similiter exponere auditoribus in publica chimiae lectione virtutem alicujus veneni causa per accidens est vel occasio homicidii, quod aliquis ex auditoribus postea machinatur: at quaerenti medium inimici occulte occidendi talis veneni virtutem exponere, causa per se homicidii est dicenda."—*Theol. Moral.*, Vol. I., n. 11.

no reason to apprehend danger to the house. When the actions with their effects are precisely the same, why should the mode of causality be different ?

Or take the case of parturition, and let us suppose that the mother is ill of fever, and that the physician administers some drug which brings down the temperature or relieves the woman in some other way, but causes premature birth. Those moral theologians would say that if the drug is administered with intent to cause abortion, the bad effect is directly produced ; whereas it is only indirect causality if the intention of the physician is only to relieve the woman. What, however, has the intention of the agent to do with the causality of his external act ? The external act is really the same in both cases ; why, again, should the evil effect be caused directly in one case and indirectly in the other ?

This line of argument convinces me that, as far as the external act and its effects are concerned, there is no advantage to be gained by falling back on this distinction between direct and indirect causality. We must, therefore, cast about for some other basis for the principle which may serve as a real test.

5. **Test Proposed by Utilitarians.**—There is, of course, the Utilitarian formula of the greatest happiness of the greatest number,—a very easy and comfortable formula, if it could be universally applied. I have already said that I do not see why, according to this principle, one might not practise vivisection on diseased men as well as on diseased animals,—might not even take some one who is not diseased and cut him up against his will, for the benefit of the human race. When any Utilitarian has explained why, according to the principle of the greatest happiness of the greatest number, it should be unlawful to stamp out disease among men, though it is lawful to do the same thing with cattle, I shall begin seriously to consider the test which he proposes.

In fact, on Utilitarian principles, I fail to see how it could be wrong to do evil that good may follow ; for, if good really follows, there is no evil committed. How could it be evil, if it is the cause of good ? And thus the axiom which the malice of their opponents has ascribed to the Jesuits, is brought home not to them but to the school of moralists to whom the Jesuits are most opposed. It is quite in accordance with this that Utilitarians

generally have no scruple about permitting a lie,[1] provided it serves a useful purpose,—permitting the doing of evil, provided it is the cause of good. In midwifery, also, almost unanimously outside the Catholic schools, a principle is known to prevail to the effect that the child may be killed to save the mother. This is doing evil that good may follow. It is maintained that it is right to do this in every case in which it can be shown that the sum of happiness is increased in the world,—that the good effects on the whole are greater than the bad. I cannot see my way to go so far ; and hence I cannot be satisfied with the test proposed by the Utilitarians, any more than with those which are commonly proposed by our own theologians, for the morality of an action which produces mixed effects.

6. **Analysis and Synthesis.**—As there is no other school to which one can turn for light,—for we have already rejected the fundamental principle of Kant,[2]—it remains to analyze the facts for ourselves, and see whether we may not, by synthesis, arrive at a principle more satisfactory than either of those we have been considering.

It is admitted, as I imagine, practically by all, that it is lawful to kill an ox or a sheep whenever the dead body of the animal is necessary or useful to man ; though in other cicumstances the same action of killing would be cruel and therefore sinful. Similarly, most people see no evil in causing pain to a rabbit or a frog, by innoculation or vivisection, provided the actions by which the pain is caused are necessary or useful to humanity ; otherwise they would be unlawful. On the contrary, it is considered wrong for shipwrecked seamen who may be drifting on the ocean in an open boat, sure to die unless their hunger is satisfied, to kill and eat the weakest of the party, who may have but an additional few minutes to live, and although the fate of empires should depend on a life which might be prolonged in this way ; and no interest of medical science or of the humanity to which it ministers, would be considered sufficient to justify a physician in experimenting on a dying child as he may on a perfectly healthy rabbit, or in stamping out the plague by killing even one innocent human victim of that disease.

Even where the injury is done to such lowly creatures

[1] See Book I., Chap. III., S. 5 (p. 19).
[2] See Book I., Chap. V., S. 6 (p. 49).

as dogs and rabbits, it would hardly be maintained that any trifling utility whatsoever is sufficient to justify the infliction of any amount of pain. The pleasure to be derived from a dish of nightingales' tongues would not make it right to slaughter these birds wholesale ; it may be not only degrading but immoral to set dogs fighting, or to set men to fight bulls or one another, for the sake of amusement ; and there are people who think it wrong to kill birds of delicate plumage and use their dead bodies merely as ornaments for ladies' hats.

Coming to another class of actions, I think few would deny that a horseman flying for life may lawfully gallop along the road, even though in doing so he should of necessity ride over and kill a child ; though it would be wrong to kill the child by an exactly similar action at the bidding of a tyrant who might order one to do so under penalty of losing one's head. And in the Catholic schools, at least, it is recognised as sinful for a physician to cause premature birth after, let us say, five months' gestation ; unless the action by which this effect is produced is efficacious otherwise in relieving the mother from considerable distress. Should this be so, however, it would be lawful, although the death of the child might be caused as certainly and as efficaciously as if there were no good result.

So, too, you may not tell a lie, at least according to most Catholic theologians, even though it were the means of saving the whole world from destruction ; and Utilitarians, like Mr. Mill, regard it as unlawful to lie, even though the effect should be a present advantage for oneself. Yet the same Catholic writers allow one to equivocate, though the evil effect produced on the person deceived is the same as that produced by the lie direct ; and most Utilitarians think it no sin to tell a direct lie, if it is the means of saving a friend from some considerable evil.

I have no fault to find with the conclusions arrived at —by the Catholic moralists at least—in all these cases. I am convinced, moreover, that when they come to practical work our theologians retain their sound commonsense and forget or neglect the general principle which they were at such pains to establish at an earlier period, when treating of what I may call the metaphysics of moral science. They insist on two things : (1) on the order of subjection or independence, between one essence and another,—as when they allow us to kill animals, but not

men, for food or other useful purposes; and (2) on the need there is that the good effect should be sufficient to compensate for the bad, when the action has effects of both kinds.

From all this I deduce the following principle :—

An external action is to be considered morally good, even though it should produce a bad as well as a good effect, provided (1) it does not subordinate a being which by nature is not to be subordinated; and (2) the good effect produced is sufficient to compensate for the bad.

7. **Illustrations in Proof.**—I apprehend that many who are better acquainted with the details of moral theology than I can pretend to be, will deny that this principle represents correctly the attitude of the Catholic writers. In support of my view I beg to submit the following considerations :—

(*a*) What reason is assigned by our moral theologians for the contention that it is right to kill and eat a sheep, but not an innocent man? Or that it is lawful to stamp out disease in cattle but not among human beings? It is acknowledged that an evil effect is directly caused when one kills a sheep for food; or when one kills an ox that is suffering from lung disease, that it may not communicate the disease to other cattle. So evil is this effect that it would be wrong to cause it unless as a kind of means to a good result; one may not without sin kill a sheep unless in circumstances wherein the death may serve some useful end. The action, however, is the direct cause of this recognised evil effect, in circumstances wherein the act is right just as much as in those wherein it is wrong. Consequently, its moral value does not depend on any distinction of direct and indirect causality, but rather on the manner in which it affects the relations of the sheep towards other beings,—and in particular towards man. The sheep, it is held, is intended for human use; wherefore, any action is right which applies the animal to the service of man; but not otherwise. Hence it is lawful to kill the sheep in circumstances wherein its flesh may be eaten or its skin used to meet human wants; but it is not lawful to cause pain to the animal except in man's service. In other words, the sheep is subordinate to man; and as long as this order is not violated, any action which affects the animal will not be wrong,—out of order,—as it would be otherwise.

Take now the case of man : why may not one kill and eat him as one may kill a sheep ? The only convincing reason that ever was advanced is, that sheep, but not men, are by nature subservient to the use of man. Men stand out independent of one another, each with his rights, *sui juris* and not subservient. This, of course, holds only up to a certain point, beyond which the man and his belongings may be injuriously affected, and that directly—as it is said,—because subservient. Hence one may amputate a limb to relieve the whole body, or one may waste one's energies in labour for the sake of food ; nay, one may be lawfully wasted in the service of another, provided one is subservient to that other in the part in which the waste is caused, as labourers and slaves are subservient as regards their energies. The ultimate reason why it is wrong to kill an innocent man for food or with a view to stamp out disease, or to mutilate or even weary him fruitlessly, is, not that the evil is directly caused, but rather because the physical evil which is caused directly is also a moral evil,—is inordinate ; since men are by nature independent, and do not forfeit the right begotten of this relation except by reason of some crime which merits subjugation. It is manifest, moreover, that the members of the body are for the benefit of the whole body,—subserve its interests,—and consequently can be directly applied, to their own loss, for the benefit of the whole. Unless I am very much mistaken, it is on considerations of this kind that our theologians depend when they discuss the morality of actions by which, as they say, loss is directly caused to the human body.[1]

[1] The fundamental reason why suicide is immoral is thus explained by Lehmkuhl (*Theol. Moral.*, vol. i., n. 575) :—"*Ratio principalis* cur grave delictum sit seipsum directe occidere, est, *quia illa actio in se pleni dominii injustum exercitium continet cum divini dominii arrogatione, utpote cui soli vita hominis humanaque persona subjaceat.* Nam destruere aliquam rem est actio qua plenissime dominium in illam exercetur ; ergo destruere vitam adeoque personam hominis, qua homo est, est sese plene tanquam dominum vitae atque humanae personae gerere. Verum (1) *nemo sui ipsius dominus, quippe qui superior esse debeat, esse potest ; ergo ille qui nihilominus se ut talem gerit, ordinem recti et veri essentialiter subvertit.* (2) Imo nemo nisi Deus de vita et morte hominis potest disponere ; ergo qui nihilominus de sua propria vita disponit, *jus et dominium exclusive divinum sibi superbus assumit.* Quod ut intelligatur, advertendum est discrimen inter humanam vitam et alias res et bona quibus homo utitur. In omnes quidem res, etiam quae usui et dominio humano deputatae sunt, Deus summum dominium retinet atque necessario sibi servat : nihilominus verum dominium in illas res non Deo soli ita competit ut ab earum dominio participativo homo excludatur. Earum igitur destructio irrationabilis vel abusus aliquam quidem divini dominii laesionem (ut in quolibet peccato

(*b*) Similarly, with regard to lying, I have already[1] shown that according to the ablest of our theologians the essential reason why it is wrong to tell a lie is, not that you thereby cause an evil directly, but rather that you make words subserve a purpose for which they are not by nature intended. If it could be shown that words may be used by man for any purpose for which they may be found to serve, it would be impossible, as far as I can see, to withstand the contention of the Utilitarians, that a lie may be conceived to be extremely useful, and should, therefore, be lawful in certain circumstances.

(*c*) Turning now to those cases in which, even though essences are not by nature subordinate but independent, it is acknowledged that certain actions by which one is served at the expense of another, may be morally right,—as when an infant's life is taken by an act which relieves the mother's distress,—I think you will find that wherever such actions are justified they do not effect any real subordination, and that this is the precise ground on which they are defended. It is not the death of the child that relieves the mother ; and if it were, as in the case of craniotomy and what is called direct abortion, it would be wrong to cause death, for it would be subordinating a being who is by nature independent and *sui juris*.

You may urge as an objection that it is possible to conceive a case in which the defenders of a besieged city are moved to surrender by reason of the deaths and the anguish caused to the women and children within the walls. The evils caused in this case are efficacious as means in producing the good result. It would seem, therefore, that the actions of the besiegers by which these evils are caused, subordinate the lives of innocent persons to a good effect ;—subordinate them, because, as in the case of abortion or craniotomy, the evils caused are means by which the good effect is produced.

fit) continet ; tamen non exprimit juris divini et absoluti, sed juris humani et participati exercitium, ac proin non includit per se alicujus juris divini arrogationem ; destructio autem propriae vitae, *utpote in quam dominium participatum haberi non possit*, illam arrogationem secum fert." It is lawful, however, to sacrifice a part of the body to save the whole. The reason is :—"*Quoniam partes sunt propter totum :* quando eligendum est inter membri abscissionem et totius corporis destructionem, i.e. corporalem mortem, sine dubio membra aliqua abjicere licet, ut vita ipsa cum mutilo corpore servetur."—(*Ibid.*, n. 577.) The essential point to be kept in view is not whether the evil is caused directly or indirectly, but whether the thing sacrificed is subservient.

[1] See Book I., Chap. III., S. 7 (p. 23).

In reply to this I admit that if the besiegers could do nothing to break down the defence except kill the innocent persons within the walls, it would not be lawful to put forth any energy which would secure the desired result by such means alone. Hence it would not be right to fire shells at a quarter occupied only by innocent persons, even though the loss caused thereby might lead to the surrender of the fortress.[1] But if the shells harm the guilty as well as the innocent, and if the evil done the guilty may be sufficient to bring about the surrender, I do not see how a shell directed against them would subordinate the lives of the innocent persons within the fortress to the welfare of the besiegers, even though the same shell might also strike the innocent and accelerate the surrender by reason of the damage caused in that way.

In fact, the firing of the shell, while it is one indivisible act, has two aspects,—"rationes" the Schoolmen would call them. Under one aspect it is a destroying of the guilty, which is recognised as quite legitimate; under the other aspect it is, in the circumstances, a slaying of innocent people, which is admitted to be out of order. If the former aspect were not present, there would be no difficulty; the action would be unlawful,—for the reason already given, that it would subordinate the lives of innocent persons to the welfare of the besiegers. But the action is also really efficacious in effecting order,—by slaying the guilty,—altogether independently of any such subordination. It is this latter aspect that justifies the action; just as it is the efficacy to produce a good effect that justifies the action of administering to a pregnant woman a drug that may cause abortion, or any similar action whatsoever, when the evil effect does not contribute in the least to the good which is produced. All such actions are indivisible entities with distinct aspects, by reason of their causing good effects as well as bad. The good aspect is sufficient to justify them, in case the evil effect does not

[1] It is usual now to suppose that in case of war the women and children are quite innocent and do not participate in the guilt of the nation to which they belong. I am not sure that this is so; indeed I suspect it is not; for the very same women and children may, as part of the nation, be punished by a fine, if the war terminates unsuccessfully for their side. I conceive that French children yet unborn may have to bear the penalties incurred by their ancestors in the Franco-German war. If taxes of this kind are true penalties, then I know of no right to exact a true penalty except it be for crime committed by the nation as a body corporate, and, therefore, by all its members, even the children.

contribute to the good. Why should not the same good aspect have equal efficacy, even though the production of the good effect should perhaps be accelerated by the effect which is evil?

Thus again we see that it is on the question of due or undue subordination that the morality of such actions depends, and not on any distinction between direct and indirect causality. Apart from any internal intention of the artillery-man, the shell, be it remembered, kills the innocent just as directly as it slays the guilty.

Something like the foregoing must, I imagine, have been before the mind of Dr. Walsh when, referring to actions such as those by which innocent persons are killed, he says that any good effects which such actions may produce will avail to justify them, if the evil effects are not the means whereby the good effects are produced.[1] And he proposes[2] the following as a test as to whether such causal relation exists in individual cases :—

"Suppose the act in question to be performed, so, however, that, owing to miraculous intervention, no evil effect is produced ; then (*a*) if, nevertheless, the good effect may be obtained, it is plain that the evil effect was not the [one] means of obtaining it, and, therefore, as far as depends on this condition, that it is lawful to perform the action ; if, however, (*b*) the good effect cannot be obtained in the absence of the evil, it is plain, *e contrario*, that the evil effect is the means of obtaining it, and hence that it is not lawful to perform the action."

We see here that the question really is whether the good effect is produced through or by means of the evil ; in other words, whether the good which is sacrificed in producing the evil effect, is made to subserve the good which is obtained, as a means subserves its end. If the good which is sacrificed is made subservient, the action will be out of order as often as the essence in question is

[1] "In iis casibus in quibus malus effectus adeo inhonestus est et nulli unquam liceat in eum consentire, neque ut finem agendi neque ut medium assequendi alius finis quantumvis boni, requiritur ut duo effectus ita ex causa profluant ut bonus effectus non obtineatur mediante effectu malo."—*De Act. Hum.*, n. 155.

[2] "Censeatur actum, de quo agitur, perfici, et tamen per miraculum impediri quominus malus effectus eveniat, deinde (*a*) si bonus effectus nihilominus obtineri potest, constat malum effectum non esse medium illius consequendi, et ideo, quod ad hanc conditionem attinet, licere causam ponere ; si vero (*b*) deficiente malo effectu, effectus bonus non potest obtineri, constat e contrario malum effectum esse medium illius consequendi, et ideo causam ponere non licere."—*Ibid.*, n. 173.

by nature such as should not be made subservient ; otherwise the action will be in order, no matter how directly the evil effect may be caused.

8. **Test of Subservience.**—It is reasonable to ask how one is to decide whether and how far any being is by nature subservient to another. I know of no general rule that may be applied ; one has to go through the different essences in nature, examine their circumstances, compare them, and then decide whether and how far they are independent or subservient. Thus, I know of no general rule that enables one to decide that it is wrong to kill men, but not sheep, for food ; wrong to experiment by way of vivisection on children or sick persons, but not on dogs or rabbits ; wrong to use words except as a means to express thoughts ; wrong to mutilate one man for another's benefit, though it is right to do the same thing when it contributes to save the life of him who suffers the loss.

These conclusions of Catholic ethics are not deduced by our writers on morals from any general principle or rule of conduct, but are drawn from intuitions which vary with the different essences and their circumstances. The theologian examines the natures or essences of the various beings concerned, observing how they stand in relation to one another, and then deciding, as best he can, whether and how far one or other is subservient. To do this completely is to work out a complete detailed system of moral theology.

9. **Proportion of Good Effect to Evil.**—One question remains to be considered before we conclude this chapter. It is : what proportion of good to evil in the effects produced is sufficient to justify one in performing such acts as may be justified by good effects ? The Utilitarian axiom is that the good must prevail over the evil,—the greatest happiness of the greatest number must result from the action. I have grave doubts as to the truth of this assertion,—I might say even that I believe it is not true. It looks well ; but, if tested by application to particular cases, will be found, I think, not to stand the test.

Take the case of parturition, and suppose that on the life of the infant the happiness of empires depends, whereas the mother's life is valuable only to herself and her

personal friends. She may be conceived, for instance, to be the widow of some great sovereign, whose only child is now in the womb, at a time of great political disturbance, when disastrous wars may be averted if the life of this child is not cut short. I can easily conceive cases in which as far as regards the general happiness, the mother's life is of little importance when compared with that of the child; and in which, nevertheless, I should hesitate before deciding that it would be wrong for the mother to ask her physician to save her from death, let us say, of fever, by means of some drug which causes premature birth, destroying thereby the child's chance of life.

So, too, when I take a walk through the fields and thereby trample to death a number of insects, I do not regard it as necessary to justify my action, to maintain that the pleasure I derive from that one walk is greater than the sum of all those pleasures which I extinguish.

In cases of this kind one has to make allowance for many things: the relative amounts of the pleasures in question; the manner in which the loss is caused,—whether immediately or only remotely; the more or less close connection which the loss and the gain have with the agent by whom the action is performed; the consideration that if the damage is not done by one agent it will be certainly done by another. As the question at issue is essentially one of order,—of the relations which are right or wrong as between certain essences,—it is necessary to take the quality of the essences into consideration, and not to be content with a mere mathematical calculation. The mother, in the case proposed, has, after all, a greater interest in her own life than in the life of the people who might be benefitted by her baby's birth. For her it is a greater boon to be saved herself than to save another woman: and what holds for one may hold for a thousand or a million. So, too, the baby is more interested in being itself born healthy than in the life even of its mother; and I can well understand how, if it could act and choose for itself, it would be justified in getting means applied which would result in its own safety and the mother's death, in circumstances wherein the mother would be no less justified in using means which would have the very contrary effect. So also, in contracts and commercial and social relations, it frequently happens that it is right for different individuals and political parties to strive for and acquire certain rights, whereas it is certain that if

these rights result in the greatest happiness of the greatest number when acquired by one party, they could not do so if acquired by the other.

Here again, I consider that there is and can be no general rule. The circumstances must be balanced in individual cases, and allowances, such as have been indicated at the beginning of the last paragraph, must be made. To determine in detail what these allowances should be, is not a question for a treatise which deals only with the general principles of morality. It is a question which the writer on ethics has to face when he comes to deal with the separate virtues, and with the actions which are in or out of the order in which each consists.[1] It is a question, I may add, in dealing with which he must draw liberally on the light supplied in the practical conclusions of other sciences.

[1] For some general guidance on this matter see The Most Rev. Dr. Walsh's treatise *De Actibus Humanis*, nn. 179 sqq.

Chapter III.—Complex Acts of Intellect and Will.

1. **Acts of Will Have but One Proximate Formal Object and One Moral Character.**—It might, at first sight, seem as if what in moral theology are known as internal acts,—acts, that is, of intellect and of will,—were each capable of tending at the same time to more than one object; just as an act of the body directed *ad extra*, may simultaneously produce more than one effect. As a matter of fact, this is how internal acts, and especially those of the will, are regarded by many Catholic writers on morals; as appears from the disquisitions they have left on the question whether the same individual act may be right and wrong. Many of our theologians say that it may, on the ground that almost every act of will, even those of the best men, is performed from a motive which is tainted with some slight impurity of selfishness or self-complacency. And as no one would think of saying that such acts of selfishness are devoid of all moral goodness, it would seem to follow that they must be at the same time good as well as bad. In other words, like the acts of the body directed *ad extra*, these acts of will would seem to tend at the same time to different formal objects, some of which are in and some out of order.

Other theologians—by far the greater number, according to Dr. Walsh[1]—while admitting that in cases such as these proposed, there is a right as well as a wrong action, deny that it is the same act which is at once right and wrong. There may be two or more acts of the will, each of which tends towards its own formal object; and according as this is in or out of order, the act which tends to it must be regarded as right or wrong. According to this view, internal acts present no such difficulty as we have been considering in the last chapter; they have each but one formal object; and if we can decide whether this is in or out of order, there is no reason why we need be further puzzled over the morality of the act which it specifies.

Thus when a man treats his father with respect, partly

[1] *De Act. Hum.*, n. 546.

from a feeling of true filial affection, and in part also from a natural desire of not being disinherited, there are really two things towards which his will tends. The first is the good which he sees and loves in his father,—the formal object of the act of filial affection; the second is the inheritance, as a good thing for himself. These two goods can be embraced by two distinct acts of the will; and the morality of each of these acts is determined by its own formal object. The same applies to all cases of the kind, whether the objects embraced are both in order or both out of order, or some in and some out of order. This seems to be the true explanation.

2. **Acts of Will may Have more than One Object, Material and Formal Combined.**—It must not be understood, however, that the will can tend by the same act to only one object. It cannot tend to more than one *proximate formal object* by the same act; but beneath this proximate formal object there may be another; as when I love one whom I regard as a friend or hate him as an enemy. In such cases, the man as well as his supposed good or evil qualities, is a true object of my act of will; the man being the material object, and his friendship or enmity the formal.[1] There may be a series of material and formal objects of this kind, which are all embraced by a single act of the will; as when a man wishes to work in order to get money, whereby to buy food, for the support of wife and family, whom he loves with an absolutely unselfish love. In this case the work, the money, the food, the family-welfare,—are all objects towards which the act of the man's will really tends. He really wishes them all;—all but the last as material objects, and all but the first as formal objects; every single one, except the first and the last, becoming in turn a formal object in respect of what immediately preceded, and a material object in relation to what immediately follows.

There is, however, but one proximate formal object, and therefore but one act of will. For, if you ask why the man loves his work, the answer is, because of the money which it brings, and which covers it, as it were, like a garment, or as a human figure may be said to clothe the marble which constitutes the Apollo Belvidere. The work is loved, not by any act of the will terminating, as we say,

[1] See *supra*, Chap. I., S. 1 (p. 135).

in it as work; but by an act of will which terminates in the money-form wherewith it is wrapped round and clothed. So far there is plainly but one act of will. Go on to inquire why the man loves the money, and you will find that he does so because in his eyes it, too, is wrapped up in an outer form,—that of food. To the workman in question the money means food and is loved for that reason alone. There is still but one act of will, which tends, it is true, or is terminated, in three things,—work, money, food. Note, however, that as the man's will, in tending towards work, really tends towards money; so this very act of tending towards money is in reality a tending towards food. The same holds till you come to the last form, or *finus ultimus* of the man's intention; which, though last in the series of objects attained, is from the very first the one thing towards which, as such, the will was reaching; so that from the beginning there was in reality but one act of the will, whereby that faculty tended towards and embraced the welfare of the agent's wife and family.

3. **Complex Formal Objects and Acts of Will.**—It may possibly be urged as an objection to the foregoing that it is unlawful to take the property of another man, even with the best intention,—say, to succour distress; which would go to show that there must be two acts of will in the case; one right,—the desire to relieve some one in need; the other wrong,—the formal act of injustice. I think it will be seen, however, that the act which is formally unjust is the desire to relieve distress with another man's property. Every desire to relieve is not in order, but only such as tend towards relief brought about in an inordinate manner,—by means of something which is not legitimately at one's own disposal.

For it should be noted that the object towards which the will tends is not always simple,—represented by a simple idea, such as relief; it may be a complexity of two ideas, the object of one being represented only as a modification of the object of the other,—as relief in this way or that. The best example of this kind of complex object and act which I can suggest, is the object of desire as distinguished from that of simple love or even of enjoyment. Let us suppose the good in question to be health. When the will tends towards health conceived without any adjunct,—absolutely, as we say,—the act is one of

simple love of health. According, however, as modifications are introduced, and health is represented as being present or absent, the simple act of love becomes either *enjoyment* or *desire*. And if a further modification is made, and health represented as being not only absent but unattainable, the act of will becomes *despair*. In this case—of despair—there is but one act; which, however, is as complex in itself as is the nature of the object towards which it tends.

4. **Different Simultaneous Acts of Will.**—I do not mean that one might not, if one set oneself to do it, tend towards each of the more or less remote formal objects by a distinct act. One could not, indeed, love the absent alone, or the unattainable, as such; but the workman, in the case proposed, might elicit distinct acts whereby his will would tend towards the work, or the money, or the food, each for its own sake. What I mean is, that if he does tend towards any of them in this way, there will be an additional act of the will in every case. Hence if a man were to give alms, not only intending to relieve distress, but also out of desire to obtain a baronetcy, he should elicit two distinct acts of will, each of which would have its own moral character, according as the precise object towards which it tended was in or out of order. Similarly, one might do what in itself and objectively is very wrong,—argue against the truth of the Christian religion, for instance,—with either a single act of will or with a number of such acts; and in either case the morality of each act must be tested by the exact object towards which it tends,—whether, that is, it is ordinate or inordinate.

5. **Distinction of Material and Formal in Internal Acts.**—It is to be observed, moreover, with regard to acts of the will, that, by reason of the distinction just explained, between the material and the formal object, an act of will may be formally right though materially wrong, and *vice versa*; almost as if the matter and form were two really distinct things, to be embraced or produced one by an act of the body and the other by an act of the spiritual faculty. Suppose, for instance, a man were to believe in good faith that the Pope or the Society of Jesus is the root of all the evil in modern European society; or that it would be a good thing to assassinate a certain monarch or statesman. Suppose one were not only to believe this,

but to make acts of will in conformity with the belief ;—to hate the Pope or the Jesuits, or to desire to kill the statesman in question. Such an act of will would be wrong materially ; in the sense that, as neither the Pope nor the Society of Jesus is the root of all evil in modern Europe, and as it is wrong to assassinate public men, the act of hate or ill-will which we have under consideration tends really towards an object which is wrong objectively. But inasmuch as the person who elicits this act of will is supposed to be in good faith, his act of will must tend towards this bad object, not under any aspect which he regards as bad, but under one which he considers good. He, therefore, by a mental act covers the object, as it were, with a form of goodness, and views it under this aspect ; and it is towards this object—a good object—that his will formally tends. Therefore, his act of will is formally in order, inasmuch as its formal object is in order or ordinate ; but the same act of will is materially inordinate, since, under the form of goodness, it really tends to a thing which is out of order.

6. **May an Act be both Right and Wrong ?**—From all this it is plain what should be said in reply to the question already referred to,—whether an act may be right and wrong at the same time. The act in question is either (*a*) an external act of the body, such as killing ; or (*b*) a single act of will ; or—as the word " act " is to be understood commonly in the works of our moral theologians—(*c*) the complex system of connected acts, partly internal and partly external, which may be performed simultaneously by the same person, and may be all united, as matter with various forms, into one complex whole.

(*a*) From what has been said in the last chapter it is easy to conclude that although an external act may have two aspects, under one of which it is a good and under another a bad thing, yet taken as a whole it must be either in or out of order. Thus it is plainly in order and right to fire shells into a besieged town, provided those who do so are waging a just war, even though a splinter from one of the shells should kill a prisoner or a child. The act, however, viewed under this latter aspect, as the cause of such a death, is evil ; and any act of will that might tend towards it under that precise aspect, would be inordinate.

(*b*) No one act of will, as we have seen, can be both

formally good and formally bad; since it can have but one proximate formal object, and this must be either in or out of order; it cannot be both.

(*c*) The same person, however, may, at the same time, perform more acts than one, of which some may be in order while the remainder are out of order. For instance, one might, by an act of the body, help a person in distress,—which is good; whilst tending with the will towards vain-glory,—which is bad. Or a patriot or Anarchist might be conceived to will the good of his country, while the energies of his body are being spent in killing an innocent sovereign or statesman. So, too, unjust wars are often waged for good motives; but these good motives do not prevent the real injustice done by the external acts of war. Examples might be multiplied indefinitely. When our theologians say that in cases such as these the act is both good and bad, they mean by "act" the complex whole; and, this being understood, their teaching is quite intelligible.

7. **Bonum ex Integra Causa: Malum ex Quocunque Defectu.**—From the foregoing it is not difficult to estimate the value of the saying, Bonum ex integra causa: malum autem ex quocunque defectu. As I understand the word "causa" in the axiom, it has the same signification as "proximate formal object." The meaning of the whole sentence, then, is: Unless the entire proximate formal object, with all its circumstances, is in order, the object of the act is not in order; it is rendered inordinate by the least inordination in the circumstances; and, of course, the action takes its moral colouring from the object.

Thus, for instance, prayer is a good thing, when viewed generically, and abstracting from the circumstance of time; but if one were to give oneself to prayer when study or other work is required, the prayer would be inordinate. This is why, in the case already proposed, I said it was wrong to give alms in the circumstances,—that is, out of another person's money. It is like a note of music, or a beautiful line or colour,—lovely in its place, but, put out of its place, leading only to discord and ugliness.

8. **The Less of two Evils Equivalent to Good.**—There is is but one exception to the rule, as understood in this sense,—and even this is not an exception. It is when the will embraces the less of two evils of which either one

or other is inevitable. In this case the act of will is not so much an embracing of the lesser evil as a flying from the greater,—an act of hate rather than of love. And though there may be a distinction of kind between hatred of an object and love of its formal opposite, this distinction is of no practical value when there is question of testing whether the act is right or wrong. For it is plainly true that whenever it is right or wrong for the will to love an object, it is equally right or wrong to hate the formal opposite of that object. If it is right to love the taking of a glass of wine or a mutton chop in certain circumstances, it is not less right to dislike being without it: and the same applies all round. So that when the object towards which the will tends is the less of two evils of which one or other is inevitable, and when the lesser evil is embraced as such, even then the object is in a sense entirely good, and the axiom holds : bonum ex integra causa.

Chapter IV.—Omission, Abstraction, and Permission.

1. **Wrong to will an Inordinate Aspect.**—We have seen[1] that an external action may be in order although it produces an evil effect, provided this evil is compensated by a proportionally good effect, and other necessary conditions are present. It may be lawful, in this way, to fire a shell into a besieged town, even though innocent people should thereby meet their death. The question arises, however: with what intention should such a shot be fired? For, the artillery-man who points the gun, or the officer who commands him to fire, can intend to do whatever the shot actually does. He may lawfully intend to kill the soldiers of the enemy, since they are supposed to merit death by reason of being engaged in an unjust war; but how is he to behave, as to his will, with regard to the women and children whom he slays?

The same question, substantially, arises even when there is but one effect produced, provided this has two aspects, of which only one is in order. I assume, for example, that it is right to hang a person who is duly convicted of murder. The criminal, however, may be a personal enemy of the judge; or it may be the private interest of the judge to get him hanged. What, in these circumstances, is the judge to will as he pronounces sentence? It is possible for him to intend the death of the criminal as a means of preserving the balance of justice and safe-guarding the public weal; or to satisfy his private hate; or to gain a fortune. The moral sense of men dictates, I imagine, that of these intentions the first is in order, whereas the other two are inordinate.

This common-sense view I regard as correct. For, though the external act of pronouncing sentence and so causing the death of the convict, is in order, it is not in order under all its aspects. It does not seem to be right for a judge to gratify his private hatred, even though this should be legitimate, by sentencing his enemy to death. The penalty is not deserved or justified on that score, but only in so far as it is a means of restoring the level of justice and of safe-guarding society. In fact I doubt

[1] Chapter III.

whether it is lawful to intend the execution even as a necessary means of safe-guarding society, since individuals are so independent of society as to make it wrong to sacrifice their lives for its benefit. Hence, it is not lawful to slaughter men with a view to stamping out disease. Be this, however, as it may, it does seem wrong to make the death of a man, even though he should be a convicted murderer, subserve one's private end. And as this precisely is the formal object towards which the will of the judge tends in the case proposed,—when he wishes to gratify his private hate by sentencing the criminal to death,—such an act of will or liking tends towards an inordinate object and is itself inordinate.

What then should the judge do in order to preserve a right intention? He should view the execution of the convicted murderer under one aspect,—as the execution of one who deserves to die, in accordance with the law. This aspect is good; and he should intend this good, abstracting carefully from embracing any other inordinate aspect which his sentence may have,—such as the promotion of his private interests or the doing away with his enemy; or, if he does freely attend to aspects such as these, he should elicit an accompanying act of will,—of hatred of such evils.

So, too, the military officer who orders an artillery-man to fire a shell into a besieged city, as also the gunner who fires the shot, must not will the death of any innocent person that may be killed by the shell. He may intend the shooting under one aspect,—as destructive of the enemy; he must hate it under another aspect,—in so far as it may do what it would be wrong to do if that were the only effect produced. Should either officer or gunner intend the action under the latter aspect, though the morality of the external action would not be thereby affected, the internal act of will would be inordinate, as tending to a formal object which is out of order,—the direct slaying of innocent persons. There is no need to multiply examples: the principle is the same in all.

2. **Permission or Pretermission.**—We have seen already[1] that this abstraction from certain aspects of external actions is not uncommonly represented in moral theology as a "permission" of the evil effect. I have

[1] Chap. II., Sec. 3 (4) (p. 150).

already explained the objection I feel to that word "permission," as applied to something of which one is really the efficient cause. I have a notion that the term "permittere," as used in this connection, is a substitute for "praetermittere," and signifies, as not rarely in classical latinity, "to omit or pass over,"—which is exactly what the will does in the process of abstraction just described. An object is recognised by the intellect as inordinate under a certain aspect. The will can embrace this aspect, thereby doing what is wrong; or it can either hate that aspect or at least omit to embrace it, tending towards the object under an entirely different aspect which is in order. Pretermission or "permission," in this sense, is necessary, whenever the effect produced has an evil aspect, if the agent is to avoid an inordinate act of will.

3. **Omissions.**—It remains to say something about omission, from the point of view of the moralist. Writers on moral theology are wont to discuss the question whether a pure omission can be voluntary and free. Suppose, for instance, a physician is sitting near the fire, in a comfortable chair, of a cold evening. Suddenly he remembers some patient whom he promised to visit and who is in need of his assistance. Besides the Determinists, no one doubts but that he is free either to attend the patient or to enjoy his ease in the chair; but there is a difference of opinion even among the advocates of free-will as to whether, in the circumstances, he can continue to take his ease, and that freely, without positively willing to do so.

I have been of opinion for some years that many writers on moral theology have approached this question with an imperfect knowledge of the psychology of the case. Viewing the matter psychologically, we perceive (1) that there can be no question of freedom until the desirability of attending the patient has presented itself to the physician's mind; (2) that immediately on the occurrence of this thought there arises of necessity in the will of the thinker a movement whereby he embraces the desirable object so presented; (3) that when he attends, however, to the limitation of the goodness or desirability of this object, he is free to abstain from any further motion in its direction; and (4) that if, in accordance with this freedom, he does abstain, he does so in every possible case by pure omission,—an omission, however, which is free, and will

be either out of order or in order according as the desirable object has been presented as necessary or not necessary.

Whoever accepts these four propositions will have no difficulty in making out an answer to the question now proposed,—about the physician. His omission is pure in one sense, though not in another; it may or may not be free. When first the idea of attending the patient occurs to him as a desirable thing, he cannot omit having a will to embrace the object so presented. In this sense there can be no pure omission which is free; since he is not free until after this thought has become present to his mind and he has elicited this spontaneous act of will. When, however, he reflects on what the desirable object thus presented involves, and deliberately remains sitting in his chair, omitting to prosecute his tendency towards it,—this is a pure omission. It is possible, of course, by a positive act of will to love to stay at home; but before this act can be elicited, staying at home must be presented to the will as being itself a desirable object. Thereupon a new motion arises in the will, of necessity, towards this new desirable object; and this motion, in turn, will not be free until the will can omit it as before,

In so far then as the physician omits, or rather ceases from, his will to attend the patient, the omission is pure. But if, while omitting, or ceasing from, this act of will, he elicits another act of will whereby he positively loves to takes his ease, this is not pure omission but positive action. That, however, free omissions are invariably accompanied by such a positive act of will, is, not only not proved, but against the evidence.

BOOK III.—FEAR, IGNORANCE, AND DOUBT.

Chapter I.—Concupiscence and Fear.

1. **Physiological and Psychological Aspects.**—We have seen that the materially moral act in the organic part of man demands its form,—the internal act of will; so that whenever, through inadvertence or ignorance, the form is not present, there is either imperfection or confusion in the moral order, the material act having either no form at all or an improper one. Accordingly, the student of morals must endeavour to form exact notions of the causes that lead to these imperfections and complications. They are of two kinds,—ignorance and doubt; but before we proceed to consider them, it may be well to say something about concupiscence and fear.

The term "concupiscence" has been used traditionally in the Catholic schools of philosophy to designate any act of appetition or craving for any good considered precisely as it is suitable for oneself,—capable, that is, of satisfying some want in one's nature. There are, as we conceive, two appetites in men: one in the organic part,—principally in the nerves; the other in the spiritual faculty or will properly so called. It is a physiological fact that a movement of the organic appetite always accompanies and even precedes—*prioritate saltem rationis*, as we say—the act of pure will, and lasts as long as this. This holds in the case of the debauchee, the drunkard, the robber, the murderer, the student, the philanthropist, or the saint. The holiest as well as the most sinful acts of will are accompanied throughout their entire duration by analogous movements in the nervous system; so that if anything should happen to interfere with the peculiar set of nerves that are brought into play in forming any of these lower appetitions, it would be impossible for the will to elicit a spiritual act to correspond. If, for instance, owing to a wound or surgical operation, one's brain and nervous system were made incapable of these peculiar movements in which the liking for alcholic stimulants consists, it would be impossible for the will proper to have any desire of intoxicating drink. The same holds all round: for it

is no less true of the will than it is of the intellect, that there can be no movement in the spiritual part that has not a corresponding motion in the nervous system.

It should be understood, moreover, that although free-will resides formally only in the spiritual appetite, this is able so to modify the organic part as that movements received therein will not continue as appetites of any peculiar form, but will take another mode and direction. On seeing a full decanter many a man experiences a craving to take a glass. This craving, as we consider, is invariably accompanied by a similar act arising of necessity in the spiritual faculty. It is this spiritual act that is formally free ; which supposes that, in certain conditions, it can cease to exist ; and when it ceases there will be in most cases a cessation of the motion in the organic part, the whole of its energy getting a new turn, and passing off in some other form,—possibly of mere physical or chemical attrition, which it is for the physiologist to explain.

Whoever attends to and reflects on his own feelings, must perceive a great difference in regard of what we call *intensity* in these movements of appetite. The difference between a very angry man and one who is angry but not very angry, is, that in the case of the former the movements in the nervous system are much more numerous, so that it takes more of an effort to control and guide them. The intensity in this sense may be so great as to destroy all power of control ; in which case these organic motions of anger will not be free, nor will the agent be responsible for them. Though, however, this happens sometimes, it does not always happen ; and we have an unshakable conviction, begotten of experience, that there are many cases in which it is in our power so to modify these motions as that they will take other forms and directions ; reverting, it may be, to the old shapes, now and then, as the control is relaxed ; but still showing by the results that the lower appetite is to a very large extent in real subjection to the spiritual faculty.

This is not the place to enter into any detailed explanation of how it may be possible for the will to effect these modifications in the movements of the organs ; on this point, also, I have elsewhere[1] suggested, and to some extent outlined, the view that I regard as most probable,

[1] See an Art. entitled "The Conservation of Energy and the Vital Activity of Organisms," in the *Dublin Review*, July, 1902.

in the present condition of the sciences of physiology and psychology.

I conceive that in proportion to the intensity of the movements in the nervous system,—according as they are more or less numerous,—a corresponding degree of intensity is required in the act of the spiritual faculty whereby they are controlled. This spiritual intensity is also to be conceived as a greater volume of movement; but it is to be remembered that such terms as "movement" and "volume" are applicable to the acts of spiritual faculties only by way of analogy; to which, indeed, there corresponds a reality which we cannot otherwise represent to the imagination.

2. **How Concupiscence Affects Formal Morality.**—Under the light of the preceding section it is not difficult to understand how the freedom, and therefore the formal morality, of an action should be diminished by concupiscence,—understanding by concupiscence the motion of the sensitive appetite. The more intense this is, the more difficult it is to control it, and the more intense, accordingly, must be the act of the spiritual faculty: which means that the spiritual faculty will be less able,—and therefore less free,—to control, in proportion to the intensity of the rush that has to be modified or directed.

This, however, supposes the movement of the organic part or nervous system to be due entirely to the character of the desirable object presented to it; abstracting from any habits which one may have freely acquired, but not from such as may have been acquired of necessity,—through ignorance or some other cause,—nor from such as may have been received by heredity. It is true that, so far as concerns the power of control possessed for the time by the will,—the present freedom of the faculty,—it does not matter how the tendency to certain grades of impetuosity may have been acquired, whether by one's own personal acts or by heredity. The drunkard, for instance, once he has contracted the drink-habit, is as much restrained in his freedom as if he had inherited the habit from drunken parents. The only difference between the two cases is, that it will often happen that we know what we do, so as to be responsible for the effects produced, when we contract personal habits, the impetuosity of which, therefore, is to be ascribed to ourselves; whereas in case of tendencies acquired by heredity

the effect is to be ascribed to the act of another, who alone can be held responsible. Accordingly, the formula given above may be modified somewhat in this fashion :—Concupiscence,—meaning thereby the movement of the sensitive appetite,—always diminishes liberty and responsibility for the time ; although it may well be that the amount of responsibility thus evaded will only be thrown back to a time previous, when the habit, owing to which the power of the will is diminished for the present, was freely contracted, either by the agent himself or by some ancestor, who will have to answer for the amount of evil thereby resulting from his acts.

I will add only that the principle, as thus stated, applies to good and bad actions equally. For, just as, in estimating the amount of guilt in any action, it is reasonable to take account of the quantity of the temptation, considered either absolutely or in relation to the character of the agent ; nor do we attach so much blame, for instance, to an act of murder committed under great provocation, as we do when the crime is committed in cold blood ; so the amount of merit in our good actions varies in inverse ratio with the habits of virtue we may have acquired or inherited. And if this should seem hard on the veteran for whom long practice has made it easy to overcome certain temptations and perform acts of certain virtues, he will obtain compensation by reason of the increased value which is proved thereby to attach to the actions by which these good habits were generated. In this way the earlier acts are to be considered better than we may have been at first inclined to regard them ; even though the actions of later life, if considered in themselves, should fall somewhat in our estimation.

3. **Fear an Equivalent of Concupiscence.**—By fear I understand an act the very reverse—formal opposite, the Schoolmen would call it—of appetite. Appetite is a craving for or tendency towards something ; fear is a flying from something regarded as unsuitable. Strictly speaking, this act of fleeing,—this tendency away from evil,—is *hate*, as contradistinguished from its formal opposite, *love ;* and hate becomes fear when the unsuitable object is apprehended as imminent. Thus, we love good health and hate illness ; and this hatred becomes fear when the illness is threatening, as when one has caught a severe chill. We may say, too, that the fear of any evil

is equivalent to a love of the formally opposite good ; as, when I fear illness, I love health, at least equivalently. Fear, accordingly, is in reality a concupiscence,—of whatever good is the formal opposite of the evil one fears ; and the question of the influence of fear on morality has, in this way, been already explained. The more fear, the less freedom, and the less present responsibility ; although, of course, this freedom and responsibility may be only thrown back to a time when the habits were formed from which these fears now result.

4. **Conflict of Fears.**—There is one phase of the question which remains to be considered,—the effect of opposing fears or appetites. I have pointed out—and insist on this very strongly—that freedom, and therefore responsibility, is entirely independent of any conflict between two or more present acts of sensitive appetition ; so that even though there should be but one desirable object to embrace, or one evil to avoid, the will may be free to modify the tendency towards or away from that one object. So far I do not contemplate any opposition between different streams of tendency within the organic part itself.

It ordinarily happens, however, as I imagine, that there are presented to the appetite at the same time two or more desirable things which exclude one another. Thus, it may be a question as to how one is to spend the day,—in study, or at a race-meeting, or at the sea-side, or on a visit to a friend. Or it may be that one has only a small sum of money to dispose of, and cannot purchase all one desires,—food, medicine, clothes, books, a present for a friend, and so on. In all such cases the concupiscence or appetite which arises when any particular object becomes present to the mind, turns into fear of the loss of the same, when one adverts to the possibility of having to surrender it in order to be in a position to embrace something else. So that what applies to concupiscence can be applied to fear, by imagining the motions reversed.

Now, when the organ is simultaneously agitated by motions in different directions, the intensity of the separate movements is thereby diminished, and the controlling power of the will proportionately increased. It is a psychological truth that the intensity of any appetite or dislike is in proportion to the amount of attention given to the object and the vividness with which its desirability is

realized. Now, the more fixed the attention is, the more vivid the perception becomes; as is seen in an extreme case in the insane, and in those who are said to be victims of a fixed idea, who have only a single appetite or fear over which they have no control. The principle underlies the theory of meditation. By fixing the attention steadily on some one good or phase of good, this has more power to entice the will; with the result that the more we realize in our own thoughts the beauty and desirability of any particular object, the more intense and less easily controlled does the appetite become whereby we tend to that object. I do not regard this as likely to be called in question by any person of a reflecting mind.

But it is no less plain that the amount of attention directed to any object is in inverse ratio to the number of objects present to the mind at the time. How few men are there who can dictate letters on different subjects to two or three secretaries working simultaneously. How few can keep two or three games of chess going at the same time. Attention is somewhat like a water-main, or an electric current, or the trunk of a tree, which may give off a portion of its supply or throw out an arm here and there, but whose efficacy is thereby diminished along the main line. The more numerous the directions in which its substance or energies are expended, the less there is to be sent in any one direction. When, in conjunction with this, we bear in mind that the intensity of the appetite or fear is in proportion to the amount of attention concentrated on the object, it becomes at once evident that the result of conflicting fears or concupiscences must be to make it easier for the will to control the senitive appetite.

This result, viewed from the moralist's point of view, has its good as well as its evil side. The good side is, that fear of sin and its consequences can be made a means of diminishing the force of temptation and so helping us to keep on the straight and difficult path. I know that there is a tendency among certain modern writers on ethics to decry this motive, as if it were unlawful in every case to love what is good, or hate what is evil, for oneself. This is not the place to discuss the question fully; it must suffice to say that self-love, within reason, and its correlatives, hate and fear, are quite in accordance with nature. The truth is, indeed, that one cannot love at all unless one begins with an act of concupiscence; and that it is only when this act of concupiscence has beeen completed,

we are able to rise to the pure love of charity. Catholics, at any rate, regard fear as the beginning of wisdom, and this because it tends to restrain our inordinate sensual appetites and to keep them under the control of the will.

The evil aspect of the same principle is no less clear. Just as the inordinate appetite is enfeebled by any tendency towards another and incompatible good, so is the tendency towards a morally good object enfeebled by every inordinate desire to the contrary. The will thereby finds it more easy to cease from its pursuit of the right, and to turn into the wrong path. Hence we make allowance for sinners according to the strength of the temptations to which they were exposed; not as if there were no sin,—except in extraordinary cases, when the temptation is so strong as to be irresistible; but judging rather that as the free-will of the sinner was diminished, his responsibility could not be so great.

In this way it may happen that an act which, if deliberately performed by one who is not influenced by fear, would be a formal mortal sin, may, in the circumstances, be only venial, owing to the influence of fear on the will of the agent. This, I conceive, would happen as often as the power which one possesses over one's sensitive appetites, is very notably diminished; and it would be for an ordinary prudent man to judge whether in individual cases the influence of fear was so notable. The same applies, *mutato nomine*, to concupiscence.

Chapter II.—Ignorance.

1. **Ignorance.**—In relation to morality, an act is to be regarded as having been performed in ignorance, whenever the agent in performing the act did not know its exact moral quality,—whether and how far it was in or out of order. If you take poison or give it to another, not knowing it to be poison or that it is wrong to take it, your external act is materially sinful, but the form with which this matter is clothed—the act of will—may be of the best,—an act of mercy or of charity. It does not make any difference whether better might or might not be expected from you in the circumstances. The early medicine-men, whose rude attempts at healing were often really injurious, although in the circumstances they could not be expected to do better, performed actions which were, materially considered, as much out of order as they would be to-day if resorted to by our most skilful surgeons or physicians. Every man, no matter how lowly his position, is ignorant in so far as he does not know the exact moral quality of his own acts.

2. **Vincible Ignorance the Same as Doubt.**—Our moral theologians usually distinguish between invincible and vincible ignorance. It is invincible as long as there is no advertence to the possibility of error. For, until one adverts to the possibility of error,—or, what is the same thing, to the possibility of the truth being found in another direction,—it is impossible to turn one's attention to that direction in order to find the truth. The moment the agent adverts to the possibility of error, his ignorance becomes vincible and is equivalent to doubt.

I know that this distinction between invincible and vincible ignorance is often explained so that the agent would be said to be invincibly ignorant whenever he suspects he may be in error, but nevertheless believes that he cannot banish these suspicions except by measures which, in the circumstances, he could not reasonably be expected to take. Thus, if I have a suspicion that I owe a small sum of money, and I know that it would cost a large sum to enable me to decide whether the amount is really due, as long as this state of things continues I

should be regarded as being in invincible ignorance of the existence of the debt.[1]

To my way of thinking it seems more reasonable to treat such cases as cases of doubt, provided the reason for apprehending error is such as to justify a well-grounded opinion that the error is actual. For in the affairs of life we are not wont to take into account mere possibilities or slight suspicions. If, however, what I may call a reasonable or strong suspicion arises,—such as would influence a prudent man to make further inquiries before taking action, if he thought he could do so without too great an inconvenience,—then, as long as such a suspicion remains in the mind, and even though, for want of time or owing to any other circumstance, it should not be possible to make further inquiries without too great a loss, I should regard the agent as being in doubt rather than in invincible ignorance. Is he not really, owing to this suspicion, in doubt as to the moral quality of his action? He may or may not be entitled to act as if he had no suspicion; but his action is to be regarded as right or wrong on the ground not so much of ignorance as of doubt. He is truly ignorant only as long as he has no suspicion such as in any case would be likely to weigh with a reasonably prudent man.

By ignorance, therefore, as distinguished from doubt, I understand the condition of mind which does not even suspect error; or, if it does suspect, considers the reasons for this suspicion so slight as to have no practical weight with reasonably prudent men. Whenever the reasons are such as to raise in the mind of the agent a suspicion of such a kind as would induce a prudent man to look further into the matter, if he could do so without too great an inconvenience,—in such circumstances the state of the agent's mind is no longer invincible ignorance or ignorance simply, but rather vincible ignorance or doubt.

3. **Ignorance Excuses from Responsibility**.—Taking ignorance in this strict signification, there is little or no difficulty in deciding as to how it affects the morality of an action. The act of will,—which alone is formally moral, so as to make one responsible,—is directly affected; inasmuch as the will can tend only to an object presented by the intellect, and only to the aspect under which it is presented. This aspect altogether depends on the state

[1] See Most Rev. Dr. Walsh, *De Act. Hum.*, nn. 221-3.

of one's knowledge. Owing to ignorance one might consider the worst thing the best ; in which case, if one should tend to what is objectively the worst, the formal act of will must be in order, since it tends only to an aspect that is presented to it as being in order. There is no need of elaborating this principle or illustrating it by examples ; even children know that no matter how bad their acts may have been, they cannot be held responsible or punished, if they had no suspicion that the acts were inordinate.

4. **Ignorance does not Relieve from Obligation.**—It is important to bear in mind that ignorance, no matter how invincible, does not do away with obligation, or affect in the least the morality of the external action. This is equally true whether the agent is ignorant of an order of law or of a fact. Thus, for instance, what is known as craniotomy is a material murder and a violation of the law of justice, whether it is done in good or bad faith ; and a baptized adult, in these countries, who eats meat on Fridays, except in case of serious danger, does what is a material sin, even though he should take the meat in good faith, either because he does not know that it is Friday, or because he does not recognise as genuine the authority that has forbidden the eating of meat on that day.

It is, of course, a well-known principle of law that non-observance by the body of the people for a long time, owing possibly to general ignorance, leads to desuetude and does away with the binding force of the law. It should be remembered, however, that this does not apply to the natural or the positive divine law, nor even to all human enactments ; and that, when it does apply to these, the ignorance does not, of itself, do away with the obligation. As a matter of fact, such laws do bind for a certain time, even though all the people should be in ignorance of their contents and even of their existence. When they pass into desuetude and cease to bind, this is due to the withdrawal of the law on the part of the legislator. What I wish to insist on here is, that, of itself, ignorance, no matter how invincible or widespread, does not make laws cease to bind, nor do away with the established order and material sin.

The importance of this principle will be seen later on. For, it has been maintained by many of our moral theologians that laws no not bind whenever and in so far as

there is doubt as to their existence or contents; on the principle that knowledge is an essential condition of true legal obligation.[1] This cannot be reconciled with the common teaching that there may be a material violation of order or law—a material sin—even though the whole community were in absolute ignorance of the order or obligation in question. A material sin is a violation of order backed up by law; and how can there be such a violation if, given ignorance, the order is changed and the law ceases to have any binding force?

[1] See *infra*, Chap. IV., S. 3 (p. 196).

Chapter III.—Doubt: (1) Practical Doubt.

1. **Speculative and Practical Doubt.** — An agent doubts about the morality of his action, whenever he thinks he has well-grounded, but not absolutely conclusive, reasons for regarding it as out of order. As has been explained in the last chapter, there will be reasons of this kind, and therefore, doubt, whenever he is not either certainly right or invincibly ignorant.

In judging of the effect produced on the action by doubts in the mind of the agent at the time of performing the action, it is necessary to distinguish between doubts of a purely speculative and those of a practical character, as well as between material and formal morality. The latter distinction has been explained already;[1] I will, therefore, try to illustrate by examples what I mean by doubts of a purely speculative and those of a practical character.

Take the case of a juror who is sworn to give a true verdict in an action for slander. He may be in doubt either as to whether there was any injury done to the plaintiff, or as to whether there was justification, or as to the quantity of the injury. Let us reduce the case to its simplest form and suppose the defendant to have certainly caused the plaintiff a loss of character, and that the only doubt is as to whether this was justified or not. What is the juror to do? If he gives a verdict for the defendant, he may be doing an injury to the plaintiff, and *vice versa*. Yet he must give a verdict some way. So far the doubt is practical.

Suppose, now, he reflects a little, saying to himself:— Every man is presumed to have committed no injury until the fact has been proved; in this case the injury has not been proved; therefore I regard the plaintiff as having done no injury, and give him the verdict. The doubt remains as before,—in a speculative kind of way. The juror is still unable to say with certainty whether the action of the defendant was or was not justified; this remains doubtful. And yet, by means of what moral theologians call a "reflex principle,"—which is nothing more than a universal proposition which may be made

[1] Book I., Chap. VI. (p. 55).

the major premise of a syllogism,—he has contrived to reach a certain practical conclusion,—that if he gives a verdict for the plaintiff he will not be held responsible or be liable to be punished for any material injury he may thereby cause.

The syllogism runs as follows :—In every case of doubt as to whether an injury has been committed by a particular person, jurors will not be held responsible for presuming the defendant to be innocent and giving a verdict for him ; but this is such a case of doubt ; therefore, I shall not be held responsible if I give a verdict for the defendant. By this means our juror has reached what is called a "practical certainty,"—a certainty as to responsibility,—provided he is certain of the truth of his major premise, and although he may remain in doubt all the time as to whether the loss of character caused the plaintiff was objectively justified or no. The intelligent reader can easily construct other cases of a similar kind.

2. **Practical Doubt and Formal Morality.**—Now, it is the teaching of all our moral theologians that any one who acts while there remains in his mind a practical doubt as to the rightness of his action, is thereby guilty of formal sin, and is responsible and liable to punishment for the same. This, as I say, is the unanimous teaching of our theologians ;[1]—a fact which the reader should bear well in mind, for reasons that will appear in a future chapter. The teaching is based on certain psychological considerations which every one can verify by reflecting on his own behaviour in cases of doubt.

When the intellect is in doubt as to whether a certain object is in or out of order, it presents the object covered by two forms,—order and disorder,—to the will. When, thereupon, this faculty embraces the object, it does so by two acts, of which one is directed to the ordinate form,

[1] Lehmkuhl, for instance, lays down the following principles:—"I. Conscientia, ut sit regula morum, quam sequi licite possumus in favorem libertatis, certa esse debet, saltem certitudine morali. 2. Dubium, igitur, si quod in dictamine conscientiae occurrit, pro dubii qualitate diverso modo removeri debet, aut ab actione abstinendum. 3. Manente dubio practico (practice—practico) circa actionis liceitatem, nihilominus operari, in re gravi per se peccatum est mortale" (vol. i., n. 48). Bouquillon's statements come to the same thing:—"Cuivis operationi praelucere debet determinata cognitio ipsius honestatis formalis, adeoque nullo modo fas est agere cum dubio proprie dicto de formali actionis honestate." "Legitima operationis regula est sola conscientia certa, non autem conscientia mere opinativa." (*Theol. Mor. Fund.* nn. 265-6).

the other to the inordinate. This means that whilst one act of the will is inordinate, as tending to an inordinate object, there is some compensation by reason of another act which is in order, as tending towards an ordinate object; and this corresponds exactly to the estimate commonly arrived at,—that he who doubts whether an act is in or out of order, and nevertheless performs it, is not, or at least may not be, quite so bad as if he did the same thing knowing for certain that it was wrong. It happens, not unfrequently, that a man will do a thing if he is in doubt as to whether it is in or out of order, whereas he would not do it if he were certain that it was wrong.

In this way there is a close analogy between an action performed under the influence of fear and one performed by an agent who is in doubt. The intensity or volume of the motion is diminished in both cases. But whereas, in the case of fear, the agent may abstain altogether from embracing the undesirable object,—as, for instance, one may abstain altogether from wishing to get drunk, knowing that drunkenness merits damnation; in the case of doubt the evil aspect of the object is embraced in every case. For the object is embraced absolutely. And though it is represented as probably not having any evil aspect; yet, since it is embraced absolutely, it is embraced even though its evil aspect should be objectively well-founded. In other words, the will tends towards the evil aspect on condition of its being objectively well-founded, though possibly with an intensity diminished by a simultaneous motion towards another aspect which is morally right. But a movement of the will towards any evil aspect is of necessity sinful,—a sin for which the agent will be held responsible from the moment the faculty was free to desist. Hence the principle that as long as the intellect apprehends an object as being probably inordinate,—as long as it doubts of the rightness of an object,—the will must tend towards that inordinate aspect; and, therefore, must act wrongfully if it embraces the object in question.

3. **Practical Doubt and Material Morality.**—Note, however, that in the case we have been considering it is only an internal act of will that is necessarily inordinate; any act of the body that may result being right or wrong according as one or other of the alternatives about which the doubt exists may be true objectively. Thus, in the

case of the juror, if as a matter of fact there was no sufficient justification for the loss of character caused the plaintiff, a verdict for him will be objectively right, and a verdict against him will be wrong, no matter what may be the juror's state of mind or motive in giving either. Neither the facts nor their objective relations are affected by the opinions and wishes or arguments of an agent.

Chapter IV.—Doubt: (2) Resolution of Practical Doubt.

1. **Object may be Covered by a Form which is Subjectively Right.**—We have seen that in case of doubt as to the moral character of an action, it may be possible to view the action under an aspect which is certainly in order; so that, if the will embraces it under this precise aspect, its action will certainly be morally right. Thus, the juror in the case proposed gives a verdict for the defendant, on the ground—and therefore under the aspect—that he—the defendant—has not been proved guilty, and as such is rightly regarded as not being responsible for any loss he may have caused the plaintiff. The juror does not say that the defendant is innocent, or that the plaintiff has no right to damages, or that his own act in refusing damages may not be out of order objectively. He simply covers the object of the act in question with a certain form,—unproved responsibility,—and then with his will embraces the relation thence accruing,—that this unproved responsibility should not be held responsible. This form and relation he regards as being quite in order; and therefore the act of will by which he embraces them is morally right.

That a right aspect or form may in this way be given to an object in case of doubt, is unquestionable; just as it is unquestionable that, apart from all doubt, any act whatever may, owing to ignorance, be regarded by the agent as right and be performed as such. The question, however, may be raised, whether it is altogether owing to ignorance that an agent cannot be held responsible for any mistake he may make after he has resolved his practical doubts in some such way as I have indicated; or is there any principle which is at once objectively true and morally justifiable, whereby, in cases of doubt, he may direct his actions intelligently and scientifically,—according to the rules of prudence.

2. **One such Form Scientifically Justifiable in Cases of Doubt.**—This question has been answered by all our theologians in the affirmative, and I have no doubt whatever that this is the correct view. Even though in cases of

doubt one may not be able to resolve what I have called the speculative question,—whether, for instance, the loss caused was or was not objectively justified,—yet I believe it to be possible, on strictly scientific principles and not merely by reason of invincible ignorance, so to shape one's practical conclusion and subsequent action as to avoid responsibility for any objective evil one may cause.[1]

There is, at least, one form with which an agent can invest his action in cases of doubt,—the least of inevitable dangers. As long as what he does is embraced by his will under this aspect,—as the least of inevitable dangers,—so long will he be acting intelligently and scientifically, even though his science may not avail so far as to clear up the speculative question. He will have resolved the practical question scientifically, and will not owe his escape from responsibility to pure ignorance,—as if he had proceeded in good faith on a reflex principle which is false.

One or two illustrations may bring out the meaning more clearly. Take the case of a man who is dangerously ill. It is probable that he will die unless a certain drug is administered or a certain surgical operation performed; and it is also probable that the drug or operation in question may cause death. Suppose, now, that his chances of life are as three to two,—in favour of the operation; where is the surgeon who would not think it right to perform it? And where is the man of sense who would not approve of the decision? It belongs to the science of medicine or surgery to determine whether there is danger in any particular course of action, and how much; but, this being determined, it is no less the province of the science of ethics to say that the course which involves least danger is morally right. If, indeed, one were so ignorant as to think it morally right to follow the course which involves the greatest danger, one should, by reason of such conviction, no matter how stupidly arrived at, be absolved from moral responsibility and formal guilt. This,

[1] No matter how unscientifically or unskillfuly one may make up one's mind as to the rightness of a certain action in present circumstances, provided only the mind is made up and one is certain that the action is right, one will not be held responsible for any objectively evil consequences that may result. This, however, does not make it impossible to err in so making up one's mind. The question under consideration in the text is, whether the mind can be made up in a way and on principles which are objectively right, so that the premises from which the practical conclusion is drawn may be objectively defensible.

however, would be due entirely to ignorance; whereas one might escape responsibility equally, and yet intelligently and scientifically, by following the course which is known to involve the least danger.

Or take a trustee of a certain fund who has reason to fear serious loss if the money is allowed to remain invested as at present, but also finds that he cannot sell out and re-invest without a loss equally serious. What is he to do? Suppose again that the odds are three to two that he will save a thousand pounds by selling out and re-investing, would it not be his plain duty to do so? And would any reasonable man regard him as guilty of mal-administration if he does sell out? Objectively, of course, he might be wrong; indeed, the probabilities are two to three that he would be, even on his own calculation. That, however, is not the question, but rather this,—whether the rule he follows is not, objectively considered, such as to justify him subjectively. Does he not do what any prudent and honest man, with his information, ought to do?

There is, therefore, at least one form—that of the least danger—which an agent who doubts of the moral character of an object, may throw over it before presenting it to be embraced by his will; and this quite conformably to the rules of moral science and common-sense. He thereby assumes as true this universal proposition: no man can be held responsible who chooses the least of two or more dangers, when there is no option but to choose one. He will then make sure, as well as he can, that a particular course is the least dangerous in the circumstances; and the conclusion follows, that in the circumstances he cannot be held responsible for any evil that may ensue from his choice. If the object which his will embraces should be evil objectively, it is not embraced as such, but only as the least of two or more dangers, which, like the less of two evils, is equivalent to a positive good.[1]

I have referred to this principle of selection as having objective value,—as being objectively true. The reader must not understand me to convey that by choosing the path of least danger an agent will avoid all possibility of objective evil. Wherever there is danger, great or little, there is this possibility; and no matter how you may be justified in making up your mind that a parti-

[1] See Book II., Chap. III., Sec. 8 (p. 171).

cular course is the least dangerous of all those that are open to you, and choosing it as such, you may, in following it, fall into material sin.

At the same time it is not difficult to see that in case of doubt as to the moral character of an action, there are many forms of reflex principle on which it is possible to rely, as premises from which to deduce a practical conclusion or dictate of conscience that a certain action is right; and no matter how false the principle and the issuing dictate may be, provided only they are regarded by the agent as certain, his action will be performed with a full conviction that it is right, and as a consequence he will be excused from formal guilt. The external action which he performs may be materially wrong, but the act of his will must be right in every case. This happy result, however, will be entirely due to ignorance,—just as if no doubt had ever crossd his mind. He acts in good faith on a principle which we may know to be objectively untrue.

The principle which I have indicated,—that it is right for the will to select the less of two dangers,—will enable him to reach the same practical conclusion; with this advantage that the principle is not false but true. It is not, of course, so true objectively as to remove all possibility of falling into one of the evils which are apprehended. It is true only in the sense that, provided one is placed between two dangers and cannot attain certainty or knowledge, the rule of prudence is to expose oneself to the lesser danger of the two. It is a principle, not of science, but of prudence; but even prudence is objective in its own way. And though one man might proceed very prudently and yet fall into the pit; whereas another might escape, though his conduct had been most imprudent; yet in the greater number of cases it is the imprudent man who will suffer and the prudent who will escape. Accordingly, the rules of prudence are objective truths, though not objective certainties,—except in the sense in which the theory of probabilities is certain; that is, in the sense that if the probabilities are in your favour it is objectively true that you have a greater chance of escape.

3. **Another Principle: Doubtful Laws do not Bind.**—The reflex principle most commonly set forth by our moral theologians in latter times is, that doubtful laws do not bind; from which they arrive at a covering form in this way:—No man is bound to a course of action or

abstention, if there be real doubt as to the existence of the obligation; now, there is real doubt in this case; therefore, in these circumstances I am not bound to do this or abstain from that. Which is the same as to say: I shall be right if I act or abstain, as the case may be. The speculative doubt remains; the course which is chosen may be objectively wrong. It is not, however, chosen as such, but under a form which is apprehended as right; and the act of will which embraces this right form is manifestly in order.

With regard to this process, the question before us is not whether, in case the agent should be fully convinced that it is right in cases of doubt to act or abstain, the act of will by which he chooses tends towards an inordinate formal object. Everybody would admit that, owing at least to ignorance, his will would embrace only what was presented to it as right. The real question is whether the process, objectively considered, is scientific; whether it is objectively true that doubtful laws do not bind, so that, in cases of doubt, one need not take them into account.

Now it seems to me quite plain that there is a very real and true sense in which laws may bind in cases of doubt, and in which it cannot be right to leave them out of calculation. In case of doubt the law in question will or will not exist objectively, according as one or other of the two opinions about it is objectively true; and there will be a material sin as often as the act of the agent is contrary to such an objectively existing law, no matter how he may have resolved his practical doubt, and no matter what may be the form with which he has covered the speculatively doubtful object.

I am not sure that this would be denied by any of our moral theologians. They argue, indeed, as if a law could not exist objectively whenever there is reasonable doubt as to this objective existence; either because, in that case, it could not have been sufficiently promulgated[1]; or because laws can bind only those who have knowledge of their existence.[2] These arguments, however, are so

[1] See Lehmkuhl, vol. I., n. 91:—"Lex non satis promulgata non obligat, seu non est lex. Atque quando ratio vere probabilis suadet obligationem in certa quadam re non existere, circa illam rem seu ejus obligationem lex non est satis promulgata; ergo vera obligatio seu lex circa illam rem non existit." *Cf.* S. Alphons: *Morale Systema*, n. 70.

[2] So Bouquillon:—"Nullus ligatur per praeceptum aliquod nisi mediante scientia illius praecepti."—(*Theol. Moral. Fund.* n. 293. *Cf.* S. Alphons., *Ibid.*, n. 71).

feeble that I can hardly regard them as being intended to prove,—what, nevertheless, is the only thing they could be conceived to prove,—that the existence of law, objectively considered, is affected by doubt in the mind of the subject.

For, promulgation is all that is required in order that the will of the law-giver should have the binding force of law; and can any one really maintain that a law is never sufficiently promulgated as long as there is either ignorance or doubt in the mind of the subject? Does ignorance of the natural law excuse from a material violation of that law?[1] Would it excuse even though the whole world were in ignorance? And how can there be material violation of law if there be no law to be violated? What about divine laws, such as that of baptism? What about ecclesiastical laws, such as those of the Council of Trent? There used to be a controversy as to whether the decrees by which these laws are officially interpreted by the S. Congregation of the Council at Rome, need to be promulgated in order to have binding force; and some few canonists held that promulgation is necessary, since up to the time when the interpretation is given the meaning of the law is doubtful, and therefore the law itself has not been sufficiently promulgated. This opinion is now rejected by every canonist of any repute.

I recognise, of course, that in the case of human laws the ignorance or even the doubts of the subjects may be due to the fact that the promulgation of the law was not sufficient. That this, however, is not necessarily so is manifest from the last paragraph. Of themselves, therefore, doubts in the minds of those who are subject to a law, prove absolutely nothing as against the existence of the law; and instead of laying down the principle, Doubtful laws do not bind, we should say, It is doubtful whether laws bind in cases of doubt. A doubtful law binds or does not bind according to the truth or false-

[1] "Concedimus quod, ut lex humana vim habeat obligandi, sat est ut communitati promulgetur, nec ut notitia ad quemcunque perveniat subditum requiritur; sed advertendum quod id valet tantum quoad materiale legis objectum, . . . non tamen quoad conscientiae obligationem" (S. Alph. l, c. n. 72). "Merito scripsit S. Alphonsus (lib. ii. n. 36), posita lege, trausgressionem ejus, etiam materialem, esse malam, et ideo nos teneri per correptionem eam impedire" (Bouquillon, *op. cit.* n. 291, note).—"Si forte existat lex illa prorsus incerta, dabitur tantum violatio materialis" (Gury, Ball, n. 63).

hood of either of the opinions about its existence or its meaning.

As for the principle as formulated and advocated by Dr. Bouquillon, after St. Alphonsus,—that no one is bound by a precept unless and in so far as he has knowledge of the precept in question,—I cannot conceive how it came to be formulated by any theologian. Is no one bound by the law of baptism except those who know for certain that the law exists? Or by the natural law? Or by the laws of the Church? Does invincible ignorance excuse from a material violation of law? And how can there be a material violation of law if no law actually binds? If, by dispensation, one has been exempted from the law, or if the law itself has, owing to custom, fallen into disuse, there is no material violation of its provisions in doing what would otherwise be a real transgression. The reason is that in such cases the law does not exist. It was promulgated; but either the promulgation has been withdrawn, or this individual has been exempted from subjection for a time. It must exist for this individual, here and now, if he is to be regarded as having committed even a material violation of its provisions.

4. **Inner Meaning of the Foregoing Principle: its Refutation.**—The foregoing principle, as stated by such writers as St. Alphonsus, Bouquillon, and Lehmkuhl, if interpreted according to the obvious meaning of the words, is so plainly false as to suggest doubts whether those theologians may not have propounded it in a somewhat peculiar sense. May they not have meant merely, that, although doubtful laws may truly bind; so that, if it should be objectivley true that the law exists, any violation of its provisions is materially sinful, no matter how excellent the intention of the agent may have been;—may they not have meant that although doubtful laws bind in this sense, their binding force does not extend to the conscience of the agent, so as to make him responsible for any probable violation of their provisions? This, I imagine, is the meaning really attached by those who propound it, to the principle, Doubtful laws do not bind.[1]

The question of responsibility is thus raised:—when

[1] So St. Alphonsus.—"Ut lex humana vim habeat obligandi, sat est ut communitati promulgetur . . . Sed advertendum quod id valet tantum quoad materiale legis objectum, . . . non tamen quoad conscientiae obligationem legem servandi"—(*Morale Systema*, n. 72).

and why is one responsible for an act which is out of order materially? Is it necessary that one should be subjectively certain of the material deordination? Or may a man be held responsible even though he is merely in doubt subjectively? The advocates of probabilism commonly maintain that there can be no responsibility as long as subjectively the agent merely doubts of the objective deordination. Is this proved? Is it true?

Let us test the principle by applying it to two sets of cases with regard to which all moralists are agreed: (1) where an act is performed by one who has a practical doubt as to its moral character; and (2) where the result of any mistake that may be made is an irretrievable calamity, such as loss of life or of salvation.

(1) In the first set of cases it is admitted that an agent who performs an act about whose moral character he has a practical doubt,—and before he resolves this doubt by means of some reflex principle, in the manner already indicated,—that such an agent will be held responsible for the action; nay, that he will be liable to punishment, no matter what may be the moral character of the action viewed objectively. Why is this? Has he any certain knowledge of the law? Does he not become responsible precisely because he is in doubt subjectively as to the objective moral character of his external action?

It is said, I know, that he has certain knowledge of the law which he actually violates and for the violation of which alone he is held responsible,—the law which binds him, in case of doubt, to acquire certainty as to the rightness of his action before he proceeds to act. This is said: but is there any such law?

Suppose the man were to act without forming any such certain conscience, what kind of sin would he commit? Suppose, for instance, he were to fire a shot at an object which, as he thought, might be either a man or a stag; of what species of sin would he be guilty? A sin of murder, or merely an act of disobedience to this further general law? It seems quite plain that he would in every case be guilty of affective murder: this is the teaching of those very theologians whose opinions I am now refuting. Bouquillon, for instance, says:—

"He who performs an action while he has prudent reason to fear that this action is in the circumstances forbidden by God, wishes the action even though it be

really prohibited, and as a consequence implicitly despises the divine authority."[1]

If he "wishes the action"—of murder, in the case proposed,—he will be held responsible for wishing to murder, and not merely for violating some general law commanding him either to make further inquiries or not to expose himself to the danger of sin.

So also Lehmkuhl :—

"Unless a man can say for certain, without fear of error, that this action which he is about to perform is in order, if he should perform it he will thereby show that he is so minded as to care nothing for the sin ; which, since it should be considered and avoided with the greatest care, is contracted by the very fact of being made little of."[2]

What sin is it that is contracted by being made little of ? Manifestly the very sin that is made little of,—that was apprehended as doubtful.[3] This, indeed, is expressly stated by St. Alphonsus :—

"Should any one perform an act while entertaining a practical doubt as to its being in order, he commits a sin of the same species and gravity as that about which he is in doubt."[4]

If this be so, he must sin, not against any general reflex law binding him to enquire further before performing the action, but against the law or the virtue which is in doubt in the circumstances. Else how could the sin be of the same species whether the act is performed by one who doubts or by one who acts with full certainty that his act is a violation of that law or virtue ?

If it were necessary to give further proof of this, I need only ask what would happen if the agent who doubts and nevertheless proceeds to act, were in complete ignorance of this general reflex law. Would he not still commit a formal sin ? not, of course, against a reflex law of which

[1] "Qui agit, prudenter reformidans ne sua actio hic et nunc a Deo prohibeatur, eam vult etiamsi realiter sit prohibita, et consequenter Dei auctoritatem saltem implicite aspernatur" (*Op. cit.*, n. 266.)

[2] "Nisi quis certo judicet, sine errandi formidine, se licite hic et nunc acturum, quando nihilominus agit, exercite ita animatus est ut nihil curet peccatum; quod, cum summopere curari, *i.e.*, caveri debeat, eo ipso quod parvipenditur contrahitur" (*Theol. Moral.*, Vol. I., n. 49).

[3] "Species malitiae qua peccatur sumitur ex lege cujus violandi periculum temere sumitur" (Lehmkuhl, *ibid.*, n. 697).

[4] "Dicimus nunquam licitum esse cum conscientia practice dubia operari; et casu quo aliquis operetur, peccat; et quidem peccato ejusdem speciei et gravitatis de quo dubitat" (*Theol. Moral.*, l. i., n. 22).

he has no knowledge, but against the virtue to which, as he has some reason to believe, his act may be opposed.

I take it, therefore, that subjective doubt is quite sufficient to beget true responsibility and formal sin; so that the principle, Doubtful laws do not bind, is not true, even though it be understood of subjective responsibility or guilt rather than of objective obligation.

(2) We shall find this conclusion confirmed if we apply it to the second set of cases already mentioned,—those in which the result of any mistake that may be made is irreparable, such as loss of life or of salvation. In such cases it is admitted by all that, even though objectively the obligation be doubtful, the agent may commit a formal sin and may be held responsible if he proceeds to act. Thus, if a chemist or physician doubts whether a certain drug or food is healthy or poisonous, and nevertheless recommends or administers it, he will be guilty of the formal sin of murder and held responsible for the same, unless in certain cases to which I shall refer later on. What I wish to insist on now is, that whereas the law in the case is obviously doubtful, it not only is sufficiently promulgated, or sufficiently known to the agent, to make his act a material sin, if the food or drug should be poisonous actually; but it is also, though doubtful, sufficiently known to him to make him formally guilty and responsible for his act. In face of this doctrine, which is admitted by all, what is the meaning of saying that a doubtful law does not bind the conscience, however it may possibly avail to bind so as to constitute a material sin?

It will, I know, be urged in reply, as before, that it is not precisely the doubtful law that makes the druggist or physician formally guilty and responsible, but another law behind, which binds him to abstain from giving or recommending the drug or food in question until he has made further inquiries. This law, it is said, is certain and known with certainty to the agent, who is formally guilty and responsible only because he violates its provisions.

Again I ask: what if one were in ignorance or doubt as to the existence of this law? Should not one still be formally guilty and responsible? You may reply that in a matter so elementary there is no room for ignorance or doubt. I submit, however, that the matter is not at all elementary; and say that I, for one, not only doubt of the existence of such a law, but am pretty certain that

it does not exist. For, let me ask further, as before: what kind of sin will the chemist or physician commit in the case? A sin of murder, at least in affection, replies St. Alphonsus; and I add: a sin of murder in effect, if the drug or food should be poisonous in reality. But how can there be a sin of murder, even in affection, if it is not the law forbidding murder that is formally violated, but some other law binding one in obedience to make inquiries in case of doubt?

5. **Formal Guilt Independent of the Existence of Law.**—The truth is that this whole question is needlessly and most unscientifically complicated by the introduction of those side-issues about what may be necessary for the binding force of a law. If there never was a law, human or divine, in the strict sense; and if there was no superior to take notice of formal guilt, or hold the sinner responsible; it would still be wrong, not only objectively but subjectively,—a formal sin of murder,—to administer poison knowingly and wilfully; and it would be no less wrong, no less a formal sin of murder, in affection, and probably in effect, to give or recommend a drug which is probably a poison, unless this were regarded as the least dangerous of all the courses which were open to the agent at the time. The existence of law, as such,—its promulgation or its divulgation,—has absolutely nothing to do with material sins, other than those of disobedience; except in cases where the order or disorder is constituted by positive enactment, such, for instance, as the law of fasting in the Catholic Church; and it has in no case anything to do with formal guilt or responsibility. Formal sins depend on the subjective conscience of the individual, and will exist, if he should act against this conscience, even though there should be no objective law.

Now, the question before us at present is indifferent to any distinction between an order existing naturally and an order created by positive enactment, and is not concerned merely with sins of disobedience. It is a question of finding a general principle by means of which we may cover any object whatsoever, of whose moral character we may have doubts, with a form which is certainly in order. It is admitted, I apprehend, that no formula will remove the possibility of falling into material deordination; it is contended only that, as long as the law is subjectively doubtful, there can be no question of formal

responsibility or guilt. Now, it is a first principle of moral science that you are formally guilty or not guilty according as, while you are acting, you do or do not apprehend that the object of your act is out of order. And it is almost as elementary a truth that such an apprehension may be present to the mind, even though, subjectively, the agent should be in real doubt as to the existence of a law. This follows from what is the universal teaching with regard to the effect on the conscience of a subjective practical doubt. The only possible answer is to say that in all such cases of subjective practical doubt, there is also a subjective certainty as to the existence of another order; and that it is this order only that is affectively violated in the circumstances. We have seen not only that there may be no such subjective certainty, but that it is much more in conformity with the principles of moral science to say that no such hinterland of order exists.

6. **Human Nature not Overburthened.** — I have known it to be maintained, though I cannot give references to any published writings, that doubtful laws do not bind so as to beget internal responsibility and formal guilt, for the reason that such an obligation would do more harm than good in the moral order. This reason, in turn, is based on the further contention that by regarding doubtful laws as binding in conscience so as to beget responsibility, we should convert into formal guilt what would otherwise be only materially inordinate, at the worst. And inasmuch as it is not to be expected that men—even good men—will take the safe side and observe the law in every case of doubt, the result of overstraining responsibility in such cases must be that formal sins will be committed and souls destroyed in vast numbers; and this even when, if the truth were known, there would be no material sin and no law objectively existing. It is said that any principle is unreasonable the application of which results in such awful moral deordinations; and that, accordingly, it is reasonable to assume that whenever the law is really doubtful there is no danger of formal guilt.

By way of criticism of this position I may ask whether the same kind of argument might not be used to prove that the law should not be urged so as to beget responsibility and formal guilt in cases of practical doubt; as well as in those cases in which laws which do not exist object-

ively are, owing to ignorance, regarded as binding. In such cases there is formal guilt where there is no material violation of order; and souls are damned needlessly, as it were, simply because they are held responsible for acts of will whereby they embraced objects which, though good in themselves, were apprehended as evil. Even though all the souls that ever were created were to be lost in this way, should we not be bound in conformity with the principles of moral science to recognise that they merited their doom?

Moreover, as far as I know, it has never been held that natural or divine law would cease to bind in conscience, so as to beget formal guilt, even though every man on earth were to violate it habitually. Even though all men were to become habitual liars, to tell a lie would still be a formal sin,—provided it were done deliberately. Christian writers have been wont to paint in very dark colours the moral condition of pagan society in the time of our Lord, and to represent this condition as prevailing still in places where the influence of revelation has either not been felt or been overborne. It is the received doctrine among us that, were it not for the working of grace in human society, few natural laws would be observed and formal guilt would everywhere prevail. Could it be maintained that in such circumstances the natural law would cease to bind in conscience so as to beget formal guilt? Could it be reasonably urged that, as in pagan society,—and even among the Jews, as we know from St. Paul,—laws did more harm than good, by converting material into formal offences and thereby causing loss of souls, it is reasonable to regard them as not binding pagan and Jewish consciences? It is the common teaching of our theologians that in the state of pure nature men would be responsible for and morally guilty of breaches of law which they could not possibly avoid. And yet we are here asked to regard it as reasonable that a law does not bind in conscience whenever it is likely that men generally would not obey.

Further, notwithstanding all the evils that are apprehended as likely to result from enforcing doubtful laws, there are some such laws that would be enforced by every one that ever wrote on moral science. If the doubt can be easily removed; and if, moreover, a grave loss, such as death, may result from proceeding to act without removing it; no one would think of suggesting that the

law does not bind in conscience. You may say that in such cases the average man would see the necessity of choosing, and would choose, the safer course. Perhaps so, in some cases,—comparatively few. Were it not for the influence of grace, as we have seen, the average man would not stop at deliberate murder, where his interests might be deeply concerned; and if this be so, surely he would be only too glad to be able to plead in justification of his action that in the circumstances the law itself was doubtful.

Finally, if it be urged that at least in some cases it is reasonable not to insist on the observance of doubtful laws, I reply that this is so whenever observance of such a law is the greater of two or more evils or dangers, of which one has to be faced or accepted. Here is a principle which everybody admits, which is easily understood, and in which those against whose views I am now contending have a natural and easy remedy for the evils they apprehend. It is the principle on which they themselves rely when they are pressed to explain why in some cases they insist on the observance of doubtful laws. Doubtful laws, they say, have to be observed whenever a great and irreparable loss might possibly result from acting on a probable opinion. In other words, they are to be observed whenever the evil or the danger to be apprehended from not observing them, is considered greater than any that would result from observance.

This, accordingly, of all the principles yet proposed for the resolution of practical doubts, is the only one that a scientific moralist can harmonize with the other principles of his science. As we proceed to test it further by some practical illustrations, and to see it at work, as it were, it will be found, I hope, to be the one principle that every man of sense applies when he has to decide whether, in any set of circumstances, a doubtful law should or need not be observed.

NOTE TO CHAPTER IV.

First Act and Second Act in relation to Laws.

Certain advocates of probabilism who have based their defence of that doctrine on the principle that a doubtful law cannot bind, when pressed close by their adversaries, are forced to admit that some kind of obligation arises from these doubtful laws; contending, however, that it is not a full and actual obligation, but only, as they say, an obligation *in actu primo*. The supposition is that when we discuss the efficacy of doubtful laws to bind the conscience, we have before our minds a full, actual obligation such as we must heed, and not any mere shadowy or seminal obligation,—the obligation *in actu primo* —which in other circumstances might become a reality to be made account of, but in the circumstances which we contemplate means practically nothing at all.

I do not know when or by whom this distinction between first and second act was introduced into treatises on the binding force of laws. St. Alphonsus took it, apparently, from Cardinal Gotti; and the curious in such matters may inquire whether the learned Cardinal is responsible for first transferring the terms in question from the treatises on actuality and activity, where they were found originally and where they serve some purpose, to treatises on law and its obligation, where they are almost without meaning.

If you consult any treatise on Ontology, in the Chapter *De Potentia et Actu*, you will find an explanation of the distinction between first and second act. In Cardinal Zigliara's *Summa* (Ontol., 8, VIII.), which is the first to hand, I find the following, taken from Goudin :—

"Actus dividi solet in actum primum et secundum. Actus primus est qui alium non supponit sed expectat, ut forma substantialis est actus primus; priorem enim non supponit, cum ipsa det primum esse. Actus secundus dicitur qui priorem alium supponit eique accidit; sic operatio est actus secundus; supponit enim formam. Existentia quoque in creaturis comparatur ad formam ut actus secundus, esse enim est actualitas omnis formae."

Goudin, it should be observed, supposes existence in created things to be really distinct from the actual essence, which comprises the actual, as distinguished from the merely possible, form.

Act and reality are identified, both being contradistinguished from possibility or power, as the Schoolmen say.

Now, a thing can be real merely as a form completing possibility, or as an action completing existing power. The latter really succeeds the former, and hence has been denominated the second, as distinguished from the first, act. St. Thomas puts the whole thing pithily when he says (1 q. 48, a. 5 c.):—"Actus est duplex, primus et secundus. Actus primus est forma et integritas rei; actus secundus est operatio."

The existence of a power capable of acting or operating is the first act; the action or operation is the second. And as laws are essentially actions or operations of the will of one who is empowered to make them,—exercises of this power of his,—a law exists in the first act in the very fact of the existence of the legislator's jurisdiction; but exists in the second act only when it is actually enacted and binds. Jurisdiction is the first act of a law; the law itself come into existence is the second.

Now, when those theologians who defend probabilism by calling in aid this distinction between first and second act,—when they say that a law which has been promulgated, indeed, but is not yet known for certain to a particular subject, binds only in first act, what do they mean? What can they mean? The first act of the law began to be, as we have seen, when the legislator's jurisdiction began; and all the laws which it is possible for him to make, even though he has and never had the least intention of making them, bind in first act by the very existence of this power. That is the only philosophical meaning attaching to the term "first act,"—a power to operate, as distinguished from an operation. Plainly this is not the meaning intended by those theologians; for the first act which they contemplate is an exercise of jurisdiction on the part of the legislator,—a something which he does, though the efficacy of the action may not yet have reached a particular subject. But an action performed, even though its efficacy may not have reached a certain term, is always a second act; certainly it is not merely a first. This is the philosophical meaning of the expression "second act."

I acknowledge, as readily as any of those theologians, that a law may have been actually promulgated at some centre of authority and yet not have reached the remote parts of the territory subject to the legislator's jurisdiction; just as a bullet may and even must be fired from a rifle before it can reach the object at which it is aimed. Does this prove that during the intervening time its energies are only in first act? Ridiculous. They are in second act,—acting and not merely capable of acting; though the action has not yet reached a particular portion of space. So, according to the well-known opinion of Suarez, during the first few years after the promulgation of the Christian religion, persons living very far from

Judea, in remote parts of the earth, were not actually bound by the law of baptism; but that law was actually existing in Jerusalem and the neighbouring countries. It was there in the second act, though this act had not yet reached to the ends of the earth. If you say that those who lived far off were bound only in first act, I do not object; but I would remind you that this first act is merely a power to bind them, such as existed always; and that until the second act reached them want of compliance with the law would not be even a material sin. Do you hold that, in like manner, there is no material sin in the cases contemplated by the advocates of probabilism, when they say that for want of knowledge of the law the person bound is bound in first act alone?

Another interesting case may be mentioned in this connection,—that of dispensation, where the law continues to exist as a second act, but a particular person is withdrawn from the sphere of its operation; somewhat as if a mirror were at first illuminated by a beam of light and then withdrawn into the shade. The beam continues to illuminate and heat the same region,—to act *actu secundo*; but the mirror is withdrawn from the sphere of its action, and will be acted on again only when it is restored to the place it had occupied. So it is with one who has been personally dispensed from the observance of a law; the law is there, though he has been withdrawn from the sphere of its action; hence he does not commit even a material sin by not complying with its provisions, until he has been again restored to his old place.

It sometimes happens that the force of a law is suspended over an entire district, as if one were to shut out the sunlight effectually from a certain room. Outside the sun is shining as before, and you have but to remove the screen that its rays may illuminate and heat the room. Meanwhile no effect of any kind is produced there,—not even what might correspond to a material sin.

Nay, it may be that the action of the law is suspended, by dispensation, over the entire territory subject to the legislator's jurisdiction, so that there is no second act whatever during the time of suspension, and no one is actually bound so as to be capable ot committing a material sin. In such circumstances the law does not pass into absolute possibility,—into the first act,—as if it had never been or had been completely abrogated; since it will revive without new promulgation when the dispensation is withdrawn or expires. It is not. therefore, while the dispensation lasts, merely the same as jurisdiction or power to make such a law; for it has been actually made, and this action will take effect in due time. Neither is it out and out a second act,—a law binding here and now. It is a kind of root or seed of law; and the most

fitting way to describe it, as it seems to me, is to say that during such time of total suspension it exists radically or in its root.

This radical existence, however, is a very different thing from the first act advocated by those theologians whom I have mentioned. For up to the time of suspension the suspended law was in second act—acting; whilst for the time of suspension it cannot avail to beget a material sin. If the law advocated by these theologians as binding in first act, though doubtful, does avail to beget a material sin, is not that efficacy a second act, not a first?

Chapter V.—How to Discern the Greatest Danger.

1. **General Formula.**—When once you have become convinced that in cases of doubt the golden rule is to follow the course which is apprehended as least dangerous, the next question to be considered is, how quantities of danger are to be measured and compared so as to find out which is the least. It seems to me that they may be measured according to the following general rule :—The quantity of the evil that is feared, multiplied by the probability that it will occur,—probability being regarded as a fraction of the unit certainty,—is equal to the amount of danger in any given case. The formula may be stated algebraically thus : $D = lp$; where D means the danger, l the loss or evil, and p the probability that this loss will be incurred. Let me try to illustrate the working of the rule.

2. **Illustrations.**—A capitalist has a thousand pounds invested in shares of a certain bank. Owing to depression of trade he has reason to fear that the bank will not be able to recover a large part of its loans nor meet its liabilities ; which, if it should occur, would mean for him a loss, let us say, of a thousand pounds. This, therefore, is the amount of evil to be feared : even though the loss were certain, it would still be only a thousand pounds ; if it be only probable that the crash will come, the danger is manifestly diminished in inverse ratio to the probability. Hence it is plain that to make out the amount of danger one must multiply the amount of the threatened evil by the amount of the probability that it will actually occur, taking certainty as the unit of the latter factor, and anything less than certainty as a fraction of that unit. Two dangers measured in this way may be easily compared.

Let us suppose that our capitalist can sell out at present, but only for £500. This means a loss of £500 if the bank should be able to weather the storm ; for in that case we may assume that the shares would reach par. Here, then, are the two dangers : one equal to $£500 \times 1$, since £500 will be certainly lost if the shares are now sold ; the other equal to $£1000 \times p$,—p being the

amount of probability that if the shares are not sold now, they will be lost entirely. The problem, then, is: what must be the value of p so that it would be advisable to sell the shares at once? It would be any fraction greater than one-half; for, a prudent man will choose the course which presents the least danger; and the product of £1000 multiplied by anything more than one-half is greater than £500, which is the amount of danger incurred by selling at once.

Take the case of a sick man who will probably die unless some surgical operation is performed, and yet may die as a result of the operation. Here the loss or evil to be apprehended is the same—death—whichever course is taken. If, then, death is certain unless the operation is performed, whereas the chances are even that the operation will save the man's life, by applying the formula we get this result: Death $\times$ 1 (if there is no operation) > Death $\times \frac{1}{2}$ (if there is an operation); which means that a prudent man will make choice of the operation. If, however, the chances are 2 : 3 that death will result if there is no operation, whilst there are 3 : 4 that the operation will cause death, the formula becomes: Death $\times \frac{2}{3}$ (if there is no operation) < Death $\times \frac{3}{4}$ (if there is an operation); which means that no prudent man would recommend the operation in the circumstances.

As the losses resultiug from diseases and their treatment may be more or less serious, and it is often difficult to assign a numerical value to these losses, even though they should certainly result, the questions arising thereby presenting some analogy to those of the moral order, it may be of interest to give a further illustration of how the formula works out in cases of that kind.

A man has got a wound in the hand which results in blood-poisoning. If the arm is not taken off he may die; and both he and the surgeon have to make up their minds whether, in the circumstances, it is advisable to have recourse to amputation. The dangers to be compared are: Death $\times$ p (*i.e.* the probability that death will ensue unless the arm is taken off), and Loss of an arm $\times$ p (which in this case is equal to 1, since it is certain that the arm will be lost if it is amputated). To justify the surgeon in amputating, the formula must stand this way: Death $\times$ p > Loss of an arm $\times$ 1; which will be true or false according to the value to be placed on life in the circumstances, as compared to an arm, and also according to

the value of p,—the amount of probability that life will be lost unless the arm is taken off. If, now, this probability is set down as 4 : 1, the formula tells us that, in the circumstances, life must be four times the value of an arm, in order to justify the surgeon in amputating the arm. If, in the circumstances, life has a larger proportionate value, the surgeon should advise amputation ; if it has a less value, he should content himself with the best medical treatment.

I can imagine something similar happening at law. A man, let us suppose, is charged with breach of trust ; and his counsel finds that only by producing certain evidence can he show, and even then only probably, that the accused is innocent. Moreover, by producing that evidence he may expose his client to a suspicion of having committed another offence of a serious kind. What is a prudent counsel to do? According to the formula, he should put into the balance, in one scale the loss that will be incurred if the man is found guilty of the offence with which he is now charged (which I will call l), multiplied by the probability that he will incur that loss (say, $\frac{1}{3}$) ; and into the other scale the loss that would accrue from being suspected of the other offence (l′), multiplied by the fraction of certainty that it will be incurred (say, $\frac{1}{4}$). It is only when l bears such a proportion to l′ as that $l \times \frac{1}{3}$ would be either equal to or less than $l' \times \frac{1}{4}$, that a prudent counsel should abstain from producing the evidence.

3. **Doubts of Law and of Fact.**—In all the illustrations given so far, the point in doubt is the existence of some fact which is necessary to put an action ou of order,—as, for instance, a man's capacity to shake off a certain disease,—rather than the existence of a moral order or law, or its extension to a particular case. I do not regard it as at all likely that any one who has been accustomed to think over questions like that before us, will have any difficulty about extending the formula from cases of doubt as to fact to cases of doubt as to order and law. For in the latter cases also, when certainty cannot be obtained, there is nothing left but to choose between two dangers. On the one hand, it is admitted that since laws are made for the public weal, loss accrues whenever the law is not complied with, even though this should happen in the best of good faith.

We have seen[1] that, according to St. Alphonsus and Bouquillon, material transgressions of order are evils. On the other hand, even the most extreme rigorist ought to admit that there is evil whenever a man regards himself as bound to do something, and does it under that conviction, although as a matter of fact he is not bound objectively. Where there is no certainty as to the existence of one or other of these evils, they are reduced at once to dangers; and the measure of any danger is the amount of evil feared multiplied by the probability that it will occur.

Take, for instance, the case of a trades-union rule which is probably inordinate. It is a serious loss to the artizans concerned if the rule should be in order objectively whilst they are not allowed to act on it; and it may also be a serious loss to employers if the men are allowed to act on a rule which, objectively, is a violation of employers' rights. In this case the dangers are capable of being compared, just as if the question in doubt were one merely of fact. So, too, if the question in dispute should be the meaning of an act of parliament or an ecclesiastical law, or the extension of either to a special set of cases. I do not think, indeed, that the distinction between cases of fact and those of law is likely to make any difference in the application of the general principle.

4. **Application to the Moral Order.**—To apply the formula to the moral questions that arise out of the foregoing cases, will not be difficult for any one who understands the nature of the moral questions that may arise. The very same course which is prudent or imprudent finance or surgery, is also, as a rule, under another aspect, morally right or wrong. A stock-broker cannot be regarded as guilty by reason of any loss that his conduct of business may have caused those who have employed him, provided he has chosen the course which, in the circumstances, seemed to him the least dangerous. He may have been stupid or ignorant; but as long as, acting up to his lights, he chooses the path of least danger, he will avoid formal guilt. The surgeon must be judged to have acted with prudence, so as to escape formal guilt, if, although his patient should die under his treatment, he has adopted the remedies which were least dangerous

[1] Chap IV., Sec. 3 (p. 197).

in his own estimation. And so any man, in whatever walk of life, will be judged to have acted rightly in the moral order, as far at least as his will is concerned, provided he has acted prudently,—as a farmer, shopkeeper, artisan, soldier, sailor, or what you will. As a rule, the morality of an action is but another aspect of its utility; so that he who has done what seemed to him most useful or least harmful, in the circumstances, will have done what is morally right, at least subjectively. And if he cannot be certain as to what is most useful, but has only a choice of more or less dangerous courses, then he will have done right in the moral order, provided he has selected the course which, to his mind, presented the least danger from the utilitarian point of view.

I have been careful to point out that there are cases in which the two orders—the moral and the physical or utilitarian—follow different and opposing paths. To apply the formula to such cases, it is only necessary to remember l and l′ are losses of the moral order, on which it is for the science of morals to set a proper value. It may not be easy to do this correctly; but the agent, in any particular case, must be regarded as guilty or innocent, according as, having one way or other made up his mind as to the value of l and l′, as also of p and p′, he has chosen the path of greater or least danger in accordance with the formula. ∎

Chapter VI.—Probabilism.

1. **Probability must Vary Inversely with the Loss.**—The reader who is in any way familiar with the ordinary Catholic hand-books on ethics and moral theology, will probably have asked himself before this whether I advocate Probabilism, Equiprobabilism, or Probabiliorism. It is easy to give a general answer, the meaning of which, however, it is not so easy to determine in one or two important sets of cases.

According to the formula proposed in the last chapter, the value that must attach to p or p′, so that the agent may not be responsible for any loss that may accrue from the choice he shall have made, varies inversely with the relative values of l and l′. If l is very large compared with l′, then, even though p should be very small as compared with p′, the agent may be bound in prudence to take the safer side. On the contrary, when l is very small as compared with l′, p must approach very near unity,—that is to say, the loss represented by l must be almost certain,—before the agent will be bound to observe the doubtful law. In other words, one can sometimes act on a probable opinion, no matter how slight the probability, provided it be worthy of a reasonable man's attention; whereas in other circumstances one might not be justified in acting on an opinion in favour of liberty, as the moral theologians say, even though it were much more probable than the opposite opinion, in favour of the obligation. Between the two extremes there is every possible grade of mean, according to the ratio that may subsist between l and l′. Let me give two or three examples to illustrate my meaning.

2. **Illustrations.**—Let us try, in the first place, to find an extreme case, in which the slightest probability, provided it be worthy of a reasonable man's attention, would justify one in performing an act which is almost certainly inordinate.

Let us suppose that a number of people travelling across a desert have lost their way or been robbed of their provisions. They have but one vessel of water, which, however, has been almost certainly poisoned. There are

but two alternatives: certain death of thirst, if they do not drink this water; and an exceedingly probable but not quite certain death from poison, if they do drink it,—or at least one of them for a trial. It seems to me, that in such a case it is only a very foolish person who would not drink the water rather than die of thirst; and yet, in case it should be poisoned, which is almost certain, to drink would be direct suicide and therefore inordinate.

Again, suppose that to the mind of a conscientious soldier it is really, though barely, possible that a certain war is justified; would it not be his duty to obey orders and do all in his power to kill the enemy,—that is to say, to kill directly a number of men whom he himself regards as almost certainly innocent? And why? Because the loss which would accrue to society if soldiers were to refuse to obey orders, is much more serious than the loss even of a number of innocent lives. At any rate the practice is—and I have no doubt but that it is justifiable—to exonerate soldiers from blame for the evils they cause in war, unless they regarded it as certain that the war was unjust.

So far for one extreme: it is easy to find illustrations of the other,—where it would not be lawful to proceed to act on anything less than certainty. A nurse has been ordered to give medicine to a patient, but does not know which of two bottles—one of which certainly contains a deadly poison—she should use. If the patient is so little indisposed as that he can, with some inconvenience, do without the medicine till the doctor calls, it is quite plain that the nurse would not be justified in administering the medicine until she can decide with certainty as to the bottle in which it is contained. I can, however, conceive a case in which the condition of the patient becomes so critical, that unless he is relieved by the medicine he cannot possibly survive. Should this occur, it seems to me that common-sense would dictate to the nurse to choose the less of two dangers, and administer the medicine out of the bottle which seems to her most likely not to contain the poison. There is no need to multiply illustrations.

3. **Ratio of Loss Caused by Enforcing a Law which Does not Exist to that which is Caused by not Enforcing a Law which Does Exist.**—So far for the general principle. I have said that it is not so easily applied to one or two sets of cases, and I now proceed to examine these. The first set

which I have before my mind comprises all those cases in which the loss which may be sustained by one who does not choose what it is usual to call the safe side,—that is to say, one who does not comply with the doubtful law,—is merely a failure to conform to the established order or the will of legislator, and a consequent damage to society. In the other scale is the personal loss which will be sustained by the agent, if, regarding himself as bound to comply when in reality he is not bound, he proceeds to do or abstain from doing something which he would certainly not have done or not have omitted if he regarded himself as free from obligation. And comparing these two losses, one might think it reasonable to say that the first is not near so great as the second; from which it would follow, according to the formula, that one would be justified in avoiding the second even though the probability of its occurring should be less than one-half. For, when $l > l'$, p may be $< p'$, and yet give $lp > l'p'$.

To make the illustration more definite, let us suppose the probabilities to be 3 : 2 that the agent is bound objectively; this gives only 2 : 3 that he is free. In order, therefore, that he may prudently abstain from complying with the doubtful law, the loss which he might sustain thereby must bear the ratio of at least 3 : 2 to that which he and the community generally would sustain if the law should objectively exist and not be observed. For, in the equation $lp = l'p'$, if p and p' are respectively $\frac{2}{5}$ and $\frac{3}{5}$, l and l' must be in the ratio of 3 : 2.

I have said that I can understand how a sensible man might think it reasonable to set a higher value on the loss accruing from the enforcing of laws which do not exist, than on that which is caused by releasing people from obligations which are truly objective. All who are of that opinion will be probabilists in dealing with the set of cases which we are now considering; they will, moreover, be prepared to demand greater or less probability that the law does actually bind, according to the less or greater value which they attach to these losses respectively.

For my part, I am disposed to set an equal value on both losses,—at least for ordinary occasions; and regard myself, accordingly, as free to abstain from complying with doubtful laws only when the probabilities on both sides are equal. Whether this estimate is just is a fair question for discussion; it is, as I conceive, almost the only point which is debatable in connection with probabilism.

I have said that I regard the possible losses on both sides as equal for ordinary occasions; for there are cases in which any possible loss that might accrue from observing the law would be practically nil. Let us suppose that on Friday night, about midnight, some Catholic doubts whether it is yet twelve, so that he would be free to eat meat. It is certainly within a few minutes of the time, and the only loss which he can possibly suffer by observing the doubtful law, is the want of meat for these few minutes. I do not regard this loss as being near so great as he might be liable to if it were Thursday night, and not Friday; or if on Friday night he were compelled within a minute or two to set out on a journey. Circumstances of this kind have to be taken into account in estimating the amount of these possible losses.

4. **Ratio of Losses in Cases of Justice, when the Right in Dispute is Divisible.**—Another question which has occasioned difference of opinion arises whenever there is doubt as to which of two or more persons is the owner of a certain sum of money, or of any piece of property which is divisible either in itself or in its value. Suppose it is certain that I owe a sum of five pounds either to A.B. or C.D.; and we may suppose further that the probabilities are 2 : 3 that it is due to A.B.; which leaves 3 : 2 that it is C.D. who should receive it. Since the amount of the loss in either case is the same—five pounds—the money should be given to C.D. in accordance with the general formula, inasmuch as in that way the greater danger will be avoided.

On the other hand it has been urged, not without show of reason, that in the circumstances the value of that debt to C.D. is only three-fifths of the entire sum. In any speculative transaction—on the race-course or the stock-exchange—three pounds would be regarded as the fair price of a claim to a sum of five pounds, when the probabilities are 3 : 2 in favour of the claimant. Why, then, should C.D. get the whole five pounds, when three pounds is the full value of his claim?

Against this I would ask you to take into account the fact that, considering the matter objectively, if C.D. has a right to any portion of the money, he has a right to the whole. Is it not my duty to take care that my action approximates as closely as possible to what is just objectively? Suppose I divide the money, as suggested, giving

three pounds to C.D. and two to A.B., there is a probability of 3 : 2 that I have caused C.D. a loss of two pounds. In fact, by making this division I am certainly doing injury to either of the claimants ; for if the money should really belong to A.B., I deprive him of three pounds ; and if it should really belong to C.D. I deprive him of two. The question, accordingly, may be put in this way : is an agent free from guilt and responsibility, according to the objective rule of prudence, when he takes a line of action which he knows will certainly result in objective injury to some one, when that injury is not the less of two evils of which one or other is inevitable ? And how do you make out that, in the case before us, this which I know to be objectively and certainly evil, is the less of two evils one or other of which I cannot avoid ?

I am inclined to think that the practice in our civil courts is,—to a large extent, though not entirely,—in conformity with the view that the whole five pounds should be given to C.D. As far as I know, judges and jurymen are disposed to act on presumptions, and to require conclusive proof, so as to beget moral certainty, before they declare a contract invalid, or enforce payment of a debt, or decide that a creditor has already paid ; and this even though there should be no little probability on the other side. They do not seem to think it right in such cases to divide the property in dispute in proportion to the probabilities, and give each of the parties the value of his claim, estimating this after the manner recognised on the stock-exchange or the race-course. There are, indeed, some cases,—especially those in which the question at issue is the validity of a bequest,—in which the court is prepared to sanction an agreement between the parties. It is, however, one thing for the individuals concerned to resign any portion of their right, lest they might lose the whole, and another thing for a judge or jury to enforce the division. I do not know of any case in which, when the entire matter is left to them to decide, they divide the property *pro rata* and hand each claimant his share. This practice confirms the arguments that have been given to prove that whenever the right in dispute is divisible, the whole sum should be given to that one of the claimants who can show the more probable title, unless and in so far as he may have relinquished any portion of his rights.

This teaching is in conformity also with the practice

of the ecclesiastical courts,—a practice which is founded on the civil and the canon law. Reiffenstuel says[1] :—

"Whenever one of the parties to a lawsuit has on his side a more probable opinion, it is by no means lawful for the judge, provided he recognises that the opinion in question is really the more probable, to neglect it and decide in accordance with the less probable opinion. This is the common and most received teaching. . . . It is *de facto* certain and indubitable, by reason of a most recent decree of Innocent XI. (2 March, 1679), in which the following, among other propositions, was condemned :—'I regard it as probable that a judge can give sentence in accordance even with a less probable opinion.' . . .

"What, however, should the judge do when both parties seem to have an equally probable claim ? . . . He should give sentence for the defendant, or for the party in possession, according to the rules of law : Quum sunt partium jura obscura, reo favendum est potiusquam actori ; and : in pari causa melior est conditio possidentis."

[1] "Quando inter duas partes litigantium una earum revera habet pro se sententiam magis probabilem, neutiquam potest judex, ea cognita ut tali, judicare juxta opinionem minus probabilem. Ita communis et receptissima Doctorum sententia . . estque de facto certa et indubitata ob novissimum decretum Innocentii XI. anno 1679, die 2 Martii, sequentem inter alias propositionem ordine 2 damnantis : 'Probabiliter existimo judicem posse judicare juxta opinionem etiam minus probabilem.' . . . Quid igitur agendum est judici, quando utraque litigantium pars videtur habere causam aeque probabilem ? . . Pro reo vel pro possessore erit judicandum juxtâ reg. 11 juris in 6:—Cum sunt partium jura obscura reo favendum est potius quam actori ; et reg. 65 eod :—In pari causa potiòr est conditio possidentis."—(*Jus. Can.* L. I. T. xxxii. nn. 52-60.)

This phase of the question is so interesting, as illustrating how one should form a certain conscience in cases of doubt, that the reader may be pleased to have his attention called to the following summary given by Lehmkuhl :—"Jam transeamus ad dubia de re civili : (1) In quibus si unus est in certa possessione, alteri, qui contra priorem agit, incumbit ut *certo probet* jura sua potiora ; quare probatio probabilis aut probabilior non sufficit. Quum autem auctores complures putent, majore probabilitate ipsam possessionem vinci : si res in solo foro conscientiae peragitur, haec opinio, quamquam simpliciter in praxim deducenda non est, tamen id moderaminis potest inducere, ut probatio *multo probabilior*, quae a morali quadam certitudine non distinguitur, pro sufficienti haberi possit.

(2) "Quando vero neuter est in pacifica possessione : si juris probabilitas certe major est pro una, quam pro altera parte, seu si alterutra juris interpretatio verior est judici, secundum eam sententiam ferre debet ; nam habemus thesim ab Innocentio XI. proscriptam : 'Probabiliter existimo judicem judicare posse juxta opinionem etiam minus probabilem.' At quamquam judex secundum suam persuasionem, adhibito studio, sibi dicere debet quid sit probabilius, tamen si scit diversas esse jurisperitorum opiniones, auctoritati etiam aliquid dare potest, maxime si videt tribunal appellationis contraria opinione dirigi. Quo facilius etiam accidere potest ut opinioni contrariae aequam probabilitatem ascribat.

5. **Rules of Law and Presumptions.**—This introduces the question of presumptions and of rules or axioms of law, such as Melior set conditio possidentis ; Standum est pro valore actus ; Standum est pro superiore ; The accused is to get the benefit of the doubt ; Every man is presumed to be innocent until he has been proved guilty ; The *chose jugée* must be respected ; and so on.

Now, in the formula D=lp, it will be seen at once that a presumption can increase the value of D, by increasing that of either l or p, or of both these factors. And this, exactly, is how I conceive presumptions to operate. Let me illustrate my meaning once more.

If a soldier doubts whether a war to which he has been ordered is just or unjust, his duty is to obey his superiors, and this even though he should think it much more probable that the war is unjust. This means that acting on a probability of, say, 1 : 5, he should not be regarded as guilty of formal crime nor held responsible for murder, although he knows that the probabilities are 5 : 1 that the actions which he is performing are objectively murderous. The reason is not, as I imagine,

"Similiter praeferendus est ille qui in aequali juris probabilitate meliorem facti probationem praebet.

(3) "Si juris probabilitas aequalis est; vel si dici nequit quaenam juris interpretatio verior sit: rectius quidem agit judex si in hoc incumbat ut studendo majorem lucem accipiat; quod si nequit, *suadeat amicam compositionem vel divisionem*, utpote naturali aequitati magis consentaneam (— id tamen per sententiam fieri, nemo jurisperitorum admiserit). Caeterum *injustitiae* reus dici nequit, si in tali casu cui maluerit rem adjudicet, imo, modo unam, modo alteram, opinionem sequatur, nisi excipias causas per leges privilegio donatas. Rationem autem cur ex natura rei injustum esse nequeat, in casu probabilitatis juris rem uni adjudicare, habes ex ipsa lege canonica, quae in paritate juris et aequali facti probatione certas causas potioris juris fecit: at hac lege contra naturalem justitiam delinqui, impium est dicere.

"Quominus autem re ipsa in eodem genere causarum judex modo sic, modo aliter, sententiam ferat, plerumque ratio scandali et propriae famae impedire debet, potiusquam injustitiae timor.

"Si quae vero leges positivae praeciperent, ut in pari causa res divideretur, judex aliter agens contra justitiam prorsus peccaret; sed talis lex —quod equidem scio—nullibi existit."—(*Theol. Moral.*, vol. i., n. 808.)

I will ask the reader, after he has digested this long extract from Lehmkuhl, to say whether he (Lehmkuhl) supposes that, after all, the doubtful law may be sufficiently promulgated; that it may be known to the judge sufficiently to bind his conscience; and that its observance, when it is to be observed, may not impose any intolerable burthen on humanity. How the author of this extract could maintain that doubtful laws,—even doubtful prescriptions of the natural law,—are not sufficiently promulgated to have binding force, passes my comprehension; except that so many of us construct our scientific systems on the plan of water-tight compartments, and allow ourselves to forget on one page what we said a page or two before.

that he, being an unskilled diplomat, or not having access to all the documents, should reconsider the question; and in doing so trust the opinion of his superiors rather than his own; and convince himself in this way, on external evidence, that the probabilities are really in favour of the justice of the war. If he is really honest he must admit—in many cases, at least—that the government of the enemy are just as reliable as his own; and that, nevertheless, they have come to the conclusion that the war on their side is just. The extrinsic authority, therefore, is, or may be, equal on both sides; nay, it may tend to increase the weight of the intrinsic evidence against the justice of the war as waged by his own country. If, then, the soldier is justified in making up his mind to carry out the orders of his superiors, it must be on the principle that l is greater than l′, rather than that p is greater than p′. That is to say, he must be honestly convinced that the loss which would accrue if soldiers were to abstain from obeying orders when they are objectively bound to go to war, is so great in proportion to the evils caused by an unjust war, as to counterbalance any probability less than certainty that the war is unjust.

There are, however, many cases in which not only is the possible loss caused by disobedience greater than any that may be caused by obedience, but also the probabilities will be on the side of his superiors. When, for instance, one has reason to doubt whether a certain law or judicial decision is just or unjust, it is not, in many cases, unreasonable to say that the legislator or judge knew best and that the probabilities are on his side.

In cases of doubt as to the guilt or innocence of an accused person, it is the value of l, not of p, that is affected by the presumption. For, the probabilities may well be 3 : 1 or 4 : 1 that the accused is guilty; yet so great is the loss that accrues to the community when one who is really innocent is punished as guilty,—a loss which tends to beget contempt of the courts of law and of the executive authority,—that it counterbalances the weight of any other loss multiplied by any number less than one,—certainty. If you do not think this a reasonable view to take of the loss caused by miscarriage of justice to the prejudice of the accused, then the reasonable course for you to pursue is to convict and punish accused persons on evidence that does not yield certainly,—let us say, on the verdict of a majority of two-thirds or three-fourths

of the jury. And in Scotland, as a matter of fact, accused persons are punished on verdicts of that kind.

The presumption caused by possession, in cases of doubt as to ownership, often raises the value of p, and almost invariably increases that of l. *Caeteris paribus*, it is more likely that the possessor of a thing is its owner. It is, however, the value of l that is most affected. For it might easily lead to social disturbance if persons were dispossessed of goods before it was proved that they are not the real owners. There is some difference of opinion among Catholic theologians and jurists as to the value that should be attached to this loss. Some have held that a judge should decide in accordance with the more probable opinion as to the merits of the case, taking due account, of course, of the fact of possession as a portion of the evidence. Others, on the contrary, teach that the party in possession should be allowed to retain the property until the other party has proved his title. The majority of theologians, according to St. Alphonsus,[1] are inclined to regard the latter as the better opinion. I think it is capable of being defended in accordance with the general formula already given; that is, on the ground that the injury caused to the social order by unduly disturbing possession, is so much greater than any evil that may accrue from individual loss of property, as to counterbalance any degree of probability notably less than certainty that the latter evil will actually result.

The axiom Melior est conditio possidentis, has been transferred by writers on morals from the external courts of justice in which there is litigation about property, to the inner court of conscience, in which the question in dispute is whether a certain action or omission is or is not disobedience to a law. Thus, when the existence of the law is certain and its fulfilment doubtful,—as, for instance, when a priest doubts whether he has said part of the divine office on a certain day; or when it is doubtful whether, on Friday night, twelve o'clock has struck and the law of abstinence has ceased to bind,—in such cases there is a tendency among certain writers to regard it as unsafe not to observe the law, even though the probability of its fulfilment or of its expiration should be equal on both sides. The reason assigned is that the law is in possession and so has presumption in its favour.

[1] *Theol. Moral.*, lib. iv., n. 40.

I am disposed to think that in cases such as these possession does not increase the value of l nor affect the quantity of D through that factor. There are cases, however, in which it would increase p and in that way affect the value of D. I can well understand, for instance, how the fulfilment of a law would require an act so peculiar, either in itself or owing to the habits and other circumstances of the person concerned, that he might well be presumed not to have fulfilled it, unless he had a more or less distinct remembrance of having done so. The same applies to confession of certain sins. In other cases, however, there would be no ground for such a presumption; nay, the presumption might be the other way. Thus, when one who has been accustomed to prepare carefully for confession and to tell all one's sins faithfully, the presumption is that a particular sin, of an ordinary character, committed years ago, has been already confessed, even though the penitent cannot now remember that he confessed it. In all cases of this kind,—where there is no question of disturbing the holders of property, but merely of fulfilling a law,—I should be disposed to say that possession can only affect the degree of probability, p; and whenever this increase has been counterbalanced by other considerations, as in the case just mentioned, I should not consider myself justified in acting on the rule Melior est conditio possidentis.

It is not necessary to go through all the rules and axioms that have been proposed: what has been already said will be sufficient to guide the intelligent reader. I beg merely to remind him that the principles, rules, and axioms, of whose application we have been treating, do not in the least affect the material morality of the act which may be ultimately performed. They affect only the act of will on which formal guilt and responsibility depend. But, as affecting this act of will, they are true objectively, in the only way in which it can be objectively true that any one danger is greater or less than another. It is a truth of prudence rather than of science; but, then, prudence, no less than science, is objective in its own way.

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